STATUTORY INSTRUMENTS

1975 No. 651 (S. 89)

LOCAL GOVERNMENT, SCOTLAND

The Local Government (Transfer of Social Work Cases) (Scotland) Order 1975

Made - - -	15*th April* 1975
Laid before Parliament	25*th April* 1975
Coming into Operation	16*th May* 1975

In exercise of the powers conferred on me by section 215 of the Local Government (Scotland) Act 1973(**a**), and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Local Government (Transfer of Social Work Cases) (Scotland) Order 1975 and shall come into operation on 16th May 1975.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

"The Act" means the Local Government (Scotland) Act 1973;

"The Act of 1968" means the Social Work (Scotland) Act 1968(**b**);

"children's hearing" and "reporter" have the same meaning as in Part III of the Act of 1968;

"existing authority" means any local authority within the meaning of section 1(2) of the Act of 1968 as originally enacted;

"new authority" means any regional or island council;

"specified date" means 16th May 1975;

"Table" means the table set forth in the Schedule to this order and the footnotes appended thereto.

(2) In this order, unless the context otherwise requires, references to the provisions of any enactment shall be construed as references to those provisions as amended, extended or applied by or under any other enactment.

(3) References in this order to a numbered article shall be construed as references to the article bearing that number in this order.

(4) References in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as references to the paragraphs bearing that number in the first mentioned article.

(5) The Interpretation Act 1889(**c**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

3.—(1) Subject to the provisions of this article and of article 4 where, immediately before the specified date, an existing authority is responsible for the care or supervision of any person or is otherwise attending to his case, whether under the provisions of a court order, supervision requirement of a

(**a**) 1973 c. 65. (**b**) 1968 c. 49. (**c**) 1889 c. 63.

children's hearing or otherwise in pursuance of any of the enactments specified in column 1 of the Table, responsibility for such care, supervision or attention shall on the specified date be transferred to the new authority specified in column 2 of the said Table opposite the relevant enactments specified in column 1.

(2) Where responsibility is transferred to a new authority in accordance with paragraph (1) of this article the relevant powers, duties, rights or liabilities vested in or attaching to the existing authority immediately before the specified date shall on the specified date be transferred to and vested in or attached to the new authority.

(3) Any order of a court, or supervision requirement made by a children's hearing which is in effect immediately before the specified date and which refers to an existing local authority shall be deemed to refer as from the specified date to the new authority to which responsibility is transferred in accordance with paragraph (1).

(4) Any resolution passed by an existing authority in accordance with section 16 (1) of the Act of 1968 which is in effect immediately before the specified date shall be deemed thereafter to have been passed by the new authority to which responsibility is transferred in accordance with paragraph (1).

(5) Where a guardianship application which has been approved by the sheriff under Part IV of the Mental Health (Scotland) Act 1960(**a**) is in effect immediately before the specified date any reference in the said approved application to an existing authority shall be deemed thereafter to refer to the new authority to which responsibility is transferred in accordance with paragraph (1).

4.—(1) Subject to the following provisions of this article where a person, being an officer of an existing local authority, has been appointed before the specified date as *curator ad litem* for the purpose of an application for an adoption order under the Adoption Act 1958(**b**), his appointment may continue notwithstanding that he has become an officer of a new authority on the specified date.

Transfer of proceedings under Part III of Act of 1968

5.—(1) Where the case of a child who has been referred under the provisions of Part III of the Act of 1968 to a children's hearing for the area of an existing authority has not been disposed of prior to the specified date, his case shall on the specified date be transferred to a new authority's area determined in accordance with paragraph (3) and on such transfer the reporter for the new authority shall make any necessary arrangements for a children's hearing to consider the case.

(2) Where a case has been transferred under paragraph (1) any notice given, warrant issued, ground of referral accepted or established, decision or appeal made or any other thing done in relation to proceedings before a children's hearing for the area of an existing authority before the specified date shall have effect as if it was given, issued, accepted or established, made or otherwise done in relation to proceedings before a children's hearing for the area of a new authority.

(3) The new authority area shall be identified for the purposes of paragraph (1) of this article by reference to—

(*a*) the new authority area which comprises the whole area of the existing authority, or, as the case may be

(*b*) the new authority area which comprises that part of the area of the existing authority within which the child had his home or, if the case was last considered outwith the existing authority area of the child's home, the area where his case was last considered.

General

6.—(1) Where any legal proceedings are pending on the specified date to which the council of existing authority is a party and the matters which are the subject of the proceedings have been transferred by or under this order, those proceedings may be continued by or against the new authority to which those matters have been so transferred and may be amended in such manner as may be necessary or proper in consequence of this order.

(2) Anything duly done by or in relation to an existing authority or any other person concerned which relates to a person, function, power, right or liability transferred by or under this order shall, if it has effect immediately before the transfer, have the like effect thereafter as if it had been done by or in relation to the new authority or other person concerned.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
15th April 1975.

Article 3(1) SCHEDULE

TABLE

Description of persons receiving care or other services and enactment under which care etc provided.	New authority to whom responsibility is transferred.
1	2
1. Child subject to a supervision requirement (sections 44(1) and 44(3) of the Act of 1968).	*Either* The new authority in the area in which the child's home is for the time being situated; *Or* (if the case was last considered by a children's hearing outwith the area of the existing authority) The successor authority in the area in which the case was last considered.
2. Child committed to the care of a local authority when remanded or committed for trial by a court (section 44(1) of the Children and Young Persons (Scotland) Act 1937(a) as amended by paragraph 4, Schedule 2, to the Act of 1968).	The new authority in the area in which the court which made the order committing the child is situated.
3. Child committed to the care, or required to be under the supervision of a local authority by order of a court under section 10(4) or 12(1), Matrimonial Proceedings (Children) Act 1958(b) or section 11(1), Guardianship Act 1973(c).	The new authority in the area of the existing local authority named in the court order, or as otherwise determined by Footnote 1.

Description of persons receiving care or other services and enactment under which care etc provided. 1	New authority to whom responsibility is transferred. 2
4. Child received into the care of a local authority under section 15(1) of the Act of 1968.	The new authority in the area of the existing local authority in whose area the child was received into care, or as otherwise determined by Footnote 1.
5. Child received into the care of a local authority under section 15(4) of the Act of 1968.	The new authority in the area of the existing local authority which took over the care of the child, or as otherwise determined by Footnote 1.
6. Person subject to guardianship of local authority under section 25(1) of the Mental Health (Scotland) Act 1960(a).	The new authority in the area of the existing authority whose application was approved by the sheriff, or as otherwise determined by Footnote 2.
7. Person under supervision by order of a court on probation or following release from prison, detention etc (section 27(1) of the Act of 1968).	The new authority in the area of the existing authority named in the court order, release order or licence, or as otherwise determined by Footnote 2.
8. Person being supervised or assisted by a local authority under section 27(1) of the Act of 1968 other than in cases to which Item 7 refers.	The new authority in the area of the existing authority which is providing the supervision or assistance, or as otherwise determined in accordance with Footnote 2.
9. Person in receipt of any service or assistance from a local authority in exercise of a duty imposed on it under any enactment referred to in paragraphs (*a*)–(*g*) of section 2(2) of the Act of 1968 other than in cases referred to in Items 1–8 above.	The new authority in the area of the existing authority providing the service or assistance, or as otherwise determined in accordance with Footnote 2 to this Table.

Footnote 1 (governing the determination of cases under Items 3, 4 and 5 above). Where more than one new authority could have responsibility in accordance with column 2 of this Table, the identity of the new authority to be solely responsible shall be determined in accordance with location of the child's home, or the child's last home, immediately before 16 May 1975.

Footnote 2 (governing the determination of cases under Items 6, 7, 8 and 9 above). Where more than one new authority could have responsibility in accordance with column 2 of this Table, the identity of the new authority to be solely responsible shall be determined as follows:

(*i*) In the case of a person receiving assistance from an existing local authority by virtue of the location of the person's present or previous home within the area of that authority, the responsible new authority shall be the new authority for the area within which the person's home is situated immediately before 16 May 1975, or the area within which the home was previously situated as the case may be.

(*ii*) In any other case, the relevant authority shall be the new authority for the area within which the care, supervision or assistance is being provided immediately before 16 May 1975.

EXPLANATORY NOTE

(This Note is not part of the order.)

This order makes transitional arrangements for the transfer of cases being dealt with by the social work committees of the present local authorities under the Social Work (Scotland) Act 1968 (c. 49) to the equivalent committees of the new regional and island authorities established under the Local Government (Scotland) Act 1973.

(a) 1960 c. 61.

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