



STATUTORY INSTRUMENTS.

S.I. No. 423 of 2012

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 2012
(TRANSFER OF FUNCTIONS OF AN CHOMHAIRLE
LEABHARLANNA) ORDER 2012

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I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by Section 14 of the Local Government (Miscellaneous Provisions) Act 2012 (No. 17 of 2012) and with the consent of the Minister for Public Expenditure and Reform, hereby order as follows:

Collective Citation and commencement.

1. (1) This Order may be cited as the Local Government (Miscellaneous Provisions) Act 2012 (Transfer of functions of An Chomhairle Leabharlanna) Order 2012.

(2) This order shall come into operation on the 1st day of November 2012.

Interpretation.

2. In this Order—

“Principal Act” means the Local Government (Miscellaneous Provisions) Act 2012 (No. 17 of 2012);

“Agency” means the Local Government Management Agency;

“Council” means An Chomhairle Leabharlanna;

“Housing and Sustainable Communities Agency” means the Agency established under the Housing and Sustainable Communities Agency (Establishment) Order — S.I. 264/2012.

Transfer of functions.

3. The following functions of the Council shall be transferred to the Agency on the coming into operation of this order:

- (a) the provision of advice, assistance and services to library authorities in relation to the public library service,
- (b) the making of such recommendations to and the provision of such services for the Minister in relation to the public library service as the Minister may request or as the Council sees fit,
- (c) action to promote and facilitate library co-operation,

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th November, 2012.*

Transfer of staff.

4. Every person who, immediately before the coming into operation of this order, was a member of staff of the Council shall, on the coming into operation of this order, be transferred to and become a member of the staff of the Agency.

Transfer of land and other property.

5. (1) On the coming into operation of this order, all lands that, immediately before that day, were vested in the Council and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Minister for all the estate or interest therein that, immediately before the coming into operation of this order, were vested in the Council, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

(2) On the coming into operation of this order all property (other than land), including choses-in-action, that immediately before that day, was vested in the Council shall stand vested in the Housing and Sustainable Communities Agency without any assignment.

(3) Every chose-in-action vested in the Housing and Sustainable Communities Agency by virtue of paragraph (2) may, on and from the coming into operation of this order, be sued on, recovered or enforced by the Housing and Sustainable Communities Agency in its own name, and it shall not be necessary for the Housing and Sustainable Communities Agency, or the Council, to give notice to any person bound by the chose-in-action of the vesting effected by that paragraph.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by and to the Council.

6. (1) All rights and liabilities of the Council arising by virtue of any contract or commitment (expressed or implied) entered into by it before the coming into operation of this order shall on that day stand transferred to the Agency.

(2) Every right and liability transferred by paragraph (1) to the Agency may, on and after the coming into operation of this order, be sued on, recovered or enforced by or against the Agency in its own name, and it shall not be necessary for the Agency, or the Council, to give notice to the person whose right or liability is transferred by that paragraph of such transfer.

(3) Every lease, licence, wayleave or permission granted by the Council in relation to land or other property vested in the Agency or under this Order, and in force immediately before the coming into operation of this order, shall continue in force as if granted by the Agency.

Liability for loss occurring before commencement day.

7. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the coming into operation of this order of the functions assigned to the Agency by or under this Order shall after that day, lie against the Agency and not against the Council.

(2) Any legal proceedings pending immediately before the coming into operation of this order to which the Council is a party, shall be continued, with the substitution in the proceedings of the Agency in so far as they so relate, to the Council.

(3) Where, before the coming into operation of this order, agreement has been reached between the parties concerned in settlement of a claim to which paragraph (1) relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Council, be enforceable against the Agency and not the Council.

(4) Any claim made or proper to be made by the Council in respect of any loss or injury arising from the act or default of any person before the coming into operation of this order shall be regarded as having been made by or proper to be made by the Agency and may be pursued and sued for by the Agency as if the loss or injury had been suffered by the Agency.

Provisions consequent upon transfer of functions, assets and liabilities to the Agency.

8. (1) Anything commenced and not completed before the coming into operation of this order by or under the authority of the Council may, in so far as it relates to a function transferred to the Agency under article 3, be carried on or completed on or after the coming into operation of this order by the Agency.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by article 3, shall, if and in so far as it was operative immediately before the coming into operation of this order, have effect on and after that day as if it had been granted or made by the Agency.

(3) References to the Council in the memorandum or articles of associations of any company and relating to a function transferred by article 3 shall, on and after the coming into operation of this order, be construed as references to the Agency.

(4) Any money, stocks, shares or securities transferred by article 3 that immediately before the coming into operation of this order were standing in the name of the Council shall, on the request of the Agency be transferred into its name.

(5) All debit or credit balances will transfer to the Agency on the coming into operation of this order.

(6) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Agency under article 5 or 6 of this order shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Accounts of the Council.

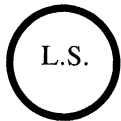
9. (1) All accounts of moneys received or expended by the Council and required to be prepared and maintained by it immediately before the coming into operation of this order and to be duly audited shall, on and after the coming into operation of this order be maintained by the Agency.

(2) The Agency shall, in respect of the period specified under paragraph (4) of this article, prepare final accounts.

(3) The Agency shall submit the final accounts to the Local Government Audit Service for audit within 3 months of the coming into operation of this order.

(4) For the purposes of paragraph (2), the Minister may specify a period that is longer or shorter than a financial year of the Council.

I, Brendan Howlin, Minister for Public Expenditure and Reform consent to the making of the foregoing Order.



GIVEN under my official seal,
25 October 2012.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
31 October 2012.

PHIL HOGAN,
Minister for the Environment, Community and
Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order transfers the functions of An Chomhairle Leabharlanna to the Local Government Management Agency.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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