
STATUTORY INSTRUMENTS

1968 No. 2012

TRANSPORT

PENSIONS AND COMPENSATION

The British Transport (Pensions
of Employees) (No. 2) Order 1968

<i>Made</i>	- - - -	<i>17th December 1968</i>
<i>Laid before Parliament</i>		<i>30th December 1968</i>
<i>Coming into Operation</i>		<i>31st December 1968</i>

The Minister of Transport and the Secretary of State, acting jointly, make this Order in exercise of their powers under section 74 of the Transport Act 1962, as read with section 136 of the Transport Act 1968, and of all other enabling powers:—

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on the 31st December 1968 and shall have effect from the 18th November 1968.

(2) This Order may be cited as the British Transport (Pensions of Employees) (No. 2) Order 1968.

(3) In this Order, unless the context otherwise requires—

“the Act” means the Transport Act 1968;

“accrued pension rights” has the meaning assigned to that expression in paragraph (4) of this Article;

“an actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland;

“the appropriate body”, in relation to a pension scheme under which pensions are provided in respect of service rendered in the employment of a nationalised transport body, means—

- (i) where the scheme is one in relation to which the property, rights and liabilities of the Holding Company are transferred by the British Transport (Pensions of Employees) (No. 1) Order 1968(1), the nationalised transport body to which they are so transferred,
- (ii) where the scheme does not fall within (i) above but is a scheme in relation to which the responsibility for making payments was placed, or the rights, liabilities and functions of

the Commission were transferred, by the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962⁽²⁾, or the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962⁽³⁾, (as the case may be), the nationalised transport body (or if more than one, any one of those bodies) on which that responsibility for the time being rests or in which those rights, liabilities and functions are for the time being vested,

- (iii) where the scheme does not fall within (i) or (ii) above but is a scheme in which employees of a nationalised transport body which is a subsidiary of a Board or the Holding Company are participating immediately before the 1st January 1969, whichever of the following bodies, namely, a Board, the Freight Corporation, the Bus Company, the Scottish Group and the Holding Company, is the body of which the said nationalised transport body is a subsidiary immediately after the 1st January 1969, and
- (iv) in all other cases, the nationalised transport body which has established the scheme;

“a Board” means any of the following bodies, namely—

- the British Railways Board,
- the London Transport Board,
- the British Transport Docks Board,
- the British Waterway Board;

“the Bus Company” means the National Bus Company established under section 24 of the Act;

“the Commission” means the British Transport Commission;

“discharged officer” means an officer who loses his employment as an officer by reason of a relevant event (the cause of the loss having arisen not later than the end of 10 years after the date of the event in question) and who does not thereupon enter the employment of another nationalised transport body, and “discharge” in relation to a discharged officer means such loss of employment;

“the Freight Corporation” means the National Freight Corporation established under section 1 of the Act;

“funded scheme” means a scheme, not being an insurance scheme, which relates in whole or in part to providing pensions in respect of service rendered in the employment of a nationalised transport body, such pensions being payable out of a fund held by any person for the purposes of the scheme;

“general scheme” means a scheme, not being a funded scheme or an insurance scheme, which relates in whole or in part to providing pensions in respect of service rendered in the employment of a nationalised transport body;

“the Holding Company” means the Transport Holding Company established under section 29 of the Transport Act 1962;

“insurance scheme” means a scheme for providing pensions in respect of service rendered in the employment of a nationalised transport body by way of contracts or policies made or effected with an assurance company carrying on life assurance business within the meaning of the Insurance Companies Act 1958 (including contracts or policies made with such a company for the purpose of implementing any form of private superannuation fund);

“member”, in relation to a pension scheme, means a person who has pension rights thereunder whether or not he is a participant therein, and “membership” shall be construed accordingly;

“the Minister” means the Minister of Transport;

“nationalised transport body” means any of the following:—

(2) (1962 III, p. 3692).

(3) (1962 III, p. 3866).

a Board,
the Holding Company,
the Freight Corporation,
the Bus Company,
the Scottish Group,
a subsidiary of any of the foregoing bodies;

“non-participating employment” has the meaning assigned to it by section 56(1) of the National Insurance Act 1965;

“normal retiring age” means—

- (i) in relation to a discharged officer who immediately before his discharge was, by virtue of the terms of his employment or the terms of the pension scheme associated with that employment, subject to a requirement to retire from that employment before attaining the age of 65 years (if a man) or 60 years (if a woman), the age at which he would have been required by those terms to retire if he had not been discharged,
- (ii) in relation to a discharged officer who immediately before his discharge had the right of continuing in his employment as an officer beyond the age of 65 years (if a man) or 60 years (if a woman), the minimum age at which he could, by the terms of his employment or the terms of his pension scheme, be required to retire or, if there is no such age, his actual age at the time when he could have been required by those terms to retire if he had not been discharged, and
- (iii) in all other cases, 65 years for men and 60 years for women;

“officer” means a person employed (whether as member, director or holder of some other office or appointment, or as a servant) by any of the following bodies, that is to say—

the Railways Board,
the Freight Corporation,
the Bus Company,
the Scottish Group,
the Holding Company,
a subsidiary of any of the foregoing bodies,

and “employment as an officer” means such employment by any of those bodies;

“pensionable service” means service ranking for benefit under a pension scheme ;

“relevant event” means any one of the events specified in paragraph (a), (b), (c) or (but only where the existing operator as defined in Schedule 6 to the Act whose consent is revoked is a nationalised transport body) (d) of section 135(1) of the Act:

“the Railways Board” means the British Railways Board;

“the Scottish Group” means the Scottish Transport Group established under section 24 of the Act;

“subsidiary”, in relation to a nationalised transport body, has the same meaning as in the Transport Act 1962 (the provisions of section 51(5) of the Act being disregarded); and

“tribunal” means a referee or board of referees appointed by the Secretary of State for Employment and Productivity after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State.

(4) In this Order the expression “accrued pension rights”, in relation to a discharged officer, means any right to the payment on or after his reaching normal retiring age or on or after the happening of

any other contingency (which expression includes the exercise of any right to receive a pension on retirement before reaching normal retiring age) carrying entitlement to pension under his scheme—

- (a) if his scheme is an insurance scheme, of the pension which would have been payable to or in respect of him by virtue of any premiums paid by or in respect of him under the scheme up to the date of his discharge; or
- (b) if his scheme is a funded scheme or a general scheme and the scheme is a scheme under which the pension rights are related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated at such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable service as would have been applicable under that scheme in the calculation of the pension, if he had at the date of his discharge reached normal retiring age, or, as the case may be, if the other contingency had then happened and there had been no requirement of the scheme as to a minimum qualifying period of service; or
- (c) if his scheme is a funded scheme or a general scheme and the scheme is a scheme under which the pension rights are not related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated on reaching normal retiring age or, as the case may be, on the happening of the other contingency, as follows:—
 - (i) on reaching normal retiring age, the pension which would have been payable under the scheme had he continued to be a member of the scheme until that age without increase of emoluments, but reduced in the proportion which the number of years of pensionable service under the scheme before the date of his discharge bears to the number of years of pensionable service which he would have rendered had he continued to be a member of the scheme until normal retiring age; or
 - (ii) on the happening of the other contingency, the pension which would have been payable under the scheme if the contingency had happened on the date of his discharge with the corresponding emoluments and length of service and there had been no requirement of the scheme as to a minimum qualifying period of service:

Provided that for the purpose of ascertaining the amount of any pension under subparagraphs (b) and (c) of this paragraph no account shall be taken of any right to payments of pension on account of temporary periods of incapacity which exceed in total amount or total period of payment the maximum amount or period laid down in the relevant scheme.

(5) Unless the context otherwise requires, references in this Order to the provisions of any Act Parliament or instrument made thereunder shall be construed as references to those provisions as amended, re-enacted or modified by or under any subsequent Act or instrument.

(6) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Return of contributions

2. Where a discharged officer is entitled under his pension scheme, on his discharge, to receive any payment by way of a return of contributions paid by or in respect of him, with or without interest thereon, he may, at any time within three months of the date of his discharge exercise his right to receive such a payment; and where such a right is exercised by any person the subsequent provisions of this Order shall not apply to him, and the persons administering the scheme, the persons in whom any fund held for the purposes of the scheme is vested, and the appropriate body shall be discharged from all other liability under the scheme to or in respect of that officer or to any other person by reason of that right having been exercised.

Funded schemes

3.—(1) Subject to the provisions of this Order, this and the next two succeeding Articles shall apply to every discharged officer who at the date of his discharge has accrued pension rights under a funded scheme.

(2) In respect of a discharged officer to whom this Article applies, the appropriate body may, not later than 3 months after the date of his discharge, make such arrangements with the persons administering the scheme as shall secure to him his accrued pension rights.

(3) Any arrangements made under the last foregoing paragraph may be terminated by the appropriate body at any time upon giving to the persons administering the scheme 3 months' previous notice in writing.

(4) Notwithstanding anything to the contrary in any such scheme as aforesaid or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the persons administering the scheme shall be authorised to make such arrangements (including the disposal of funds held for the purposes of the scheme) as are referred to in paragraph (2) of this Article and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

4.—(1) Where no such arrangements as are mentioned in Article 3 of this Order are made in relation to a discharged officer to whom this Article applies, or where such arrangements, if made, have been duly terminated, the persons in whom any funds held for the purposes of the scheme are vested shall transfer to the appropriate body a sum which equals in amount either—

- (a) the transfer value at the date of his discharge or the date on which the arrangements are terminated, as the case may be, of his pension rights as defined for the purposes of the scheme, or
- (b) in the absence of such a definition, the estimated capital value at that date of his accrued pension rights.

with compound interest from the date of his discharge or the date on which the arrangements are terminated, as the case may be, until such sum is transferred to the appropriate body; and upon such sum being transferred, the appropriate body shall indemnify the persons in whom the said sum is vested against any liability for the payment of income tax in respect of the sum transferred to that body, and, without prejudice to their liability under arrangements made in accordance with Article 3 of this Order or under the preceding provisions of this Article, as from the date of the discharge of such discharged officer, the persons administering the scheme, and the persons in whom the said fund is vested, shall be discharged from all liability under the scheme to or in respect of that discharged officer or to any other person by reason of the transfer.

(2) The reference in paragraph (1) of this Article to compound interest shall be construed as a reference to compound interest at the same rate and with the same rests as were applied—

- (a) in a case where the sum to be transferred is that referred to in sub-paragraph (a) of the said paragraph, for the purposes of the last periodical actuarial valuation of the fund held for the purposes of the scheme; and
- (b) in any other case, for the purposes of calculating the estimated capital value of the accrued pension rights referred to in that paragraph.

(3) The sum to be transferred to the appropriate body under the provisions of paragraph (1) of this Article shall be transferred within 6 months after the date of the discharge of the officer concerned or, where any such arrangements as are referred to in paragraph (2) of the last preceding Article have been made, the date on which the arrangements are duly terminated, as the case may be.

(4) The sum referred to in paragraph (1)(b) of this Article shall be determined by an actuary appointed by the appropriate body and the fees of any actuary so appointed shall be defrayed by the appropriate body.

5.—(1) Subject to the provisions of this Article, where in relation to a discharged officer to whom this Article applies a sum has been transferred to the appropriate body under the provisions of the last preceding Article, the appropriate body shall pay to or in respect of that officer:—

- (a) as from his reaching normal retiring age, or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights; or
- (b) at the option of the appropriate body in any case where the sum does not exceed £250 and where the officer concerned has not at any time before his discharge been in non-participating employment or, if he has so been, a payment in lieu of graduated contributions has been made in respect of his non-participating employment in accordance with section 58 of the National Insurance Act 1965, (such option to be exercised not later than 6 months after the date of his discharge), a lump sum equal in amount to the estimated capital value of his accrued pension rights at the date when the option is exercised, as determined by an actuary appointed by the appropriate body, reduced by the aggregate of—
 - (i) any sum which the persons in whom the fund held for the purposes of that scheme is vested may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value or estimated capital value, and
 - (ii) in a case where a payment in lieu of graduated contributions has been made under section 58 of the National Insurance Act 1965 on the discharge of the officer concerned and the period taken into account in fixing the amount of that payment includes any period of his pensionable service under that scheme, the smaller of the following two sums—
 - (A) one-half of so much of that payment in lieu of graduated contributions as is referable to that period of pensionable service, and
 - (B) the estimated capital value (determined as aforesaid) of the pension rights which have accrued to him under that scheme in respect of that period of pensionable service:

Provided that for the purposes of this paragraph, the expression “accrued pension rights” excludes any pension payable during the period for which any such arrangements as are referred to in Article 3(2) of this Order are in force.

(2) Except as provided in paragraph (1)(b) of this Article, the payment or payments comprised in the accrued pension rights of a discharged officer to whom this Article applies shall not be capable of surrender, commutation or assignment otherwise than in accordance with the rules of his pension scheme.

(3) The appropriate body may discharge its liability under paragraph (1)(a) of this Article by making such arrangements with a life assurance company as will secure to or in respect of the discharged officer concerned, as from his reaching normal retiring age or as from the happening of any other contingency carrying entitlement to pension under his pension scheme, the payment or payments comprised in his accrued pension rights.

(4) Except as aforesaid, the appropriate body shall be under no liability to or in respect of the discharged officer concerned by reason of any rights under or arising out of his membership of the scheme.

Insurance Schemes

6.—(1) Subject to the provisions of this Order, this Article shall apply to every discharged officer who at the date of his discharge has accrued pension rights under an insurance scheme.

(2) In respect of a discharged officer to whom this Article applies, the appropriate body shall, not later than 3 months after the date of his discharge, make such arrangements with the persons administering the scheme and the life assurance company concerned as shall secure to or in respect of that discharged officer on his reaching normal retiring age, or on the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights.

(3) Any arrangements made under paragraph (2) of this Article shall, in any case where the payments to be secured thereunder to or in respect of a discharged officer on his reaching normal retiring age do not exceed £13 per annum and where the officer concerned has not at any time before his discharge been in non-participating employment or, if he has so been, a payment in lieu of graduated contributions has been made in respect of his non-participating employment in accordance with section 58 of the National Insurance Act 1965, provide that the life assurance company may, at any time within 3 months of the making of the arrangements, discharge its liability thereunder by paying to or in respect of the discharged officer concerned a lump sum equal in amount to the estimated capital value of his accrued pension rights as at the date on which the arrangements are made, determined in such manner as may be provided by the arrangements so made, and adjusted, in such manner as may be provided by the arrangements, in respect of the aggregate of:—

- (a) any sum which the persons administering the scheme may become liable to pay by way of income tax in consequence of the payment of the said lump sum, and
- (b) in a case where a payment in lieu of graduated contributions has been made under section 58 of the National Insurance Act 1965 on the discharge of the officer concerned and the period taken into account in fixing the amount of that payment includes any period of his pensionable service under that scheme, the smaller of the following two sums—
 - (i) one-half of so much of that payment in lieu of graduated contributions as is referable to that period of pensionable service, and
 - (ii) the estimated capital value (determined as aforesaid) of the pension rights which have accrued to him under that scheme in respect of that period of pensionable service.

(4) Notwithstanding anything to the contrary in such scheme as aforesaid or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the persons administering the scheme and the life assurance company concerned shall be authorised to make such arrangements (including the disposal of any funds held for the purposes of the scheme) as are referred to in paragraph (2) of this Article and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

(5) Except as provided in paragraph (3) of this Article, the arrangements aforesaid shall ensure that the payment or payments comprised in the accrued pension rights of the officer concerned shall not be capable of surrender, commutation or assignment otherwise than in accordance with the rules of his pension scheme.

General Schemes

7.—(1) Subject to the provisions of this Order, this Article shall apply to every discharged officer who at the date of his discharge has accrued pension rights under a general scheme.

(2) The appropriate body shall pay to or in respect of a discharged officer to whom this Article applies—

- (a) as from his reaching normal retiring age, or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights; or
- (b) at the option of the appropriate body in any case where the sum does not exceed £250 and where the officer concerned has not at any time before his discharge been in non-participating employment or, if he has so been, a payment in lieu of graduated contributions has been made in respect of his non-participating employment in accordance with section 58 of the National Insurance Act 1965, (such option to be exercised not later than 6 months after the date of his discharge), a lump sum equal in amount to the estimated capital value of his accrued pension rights at the date when the option is exercised, as determined by an actuary appointed by the appropriate body, reduced by the aggregate of—
 - (i) any sum payable by way of income tax in consequence of the payment of the said lump sum, and
 - (ii) in a case where a payment in lieu of graduated contributions has been made under section 58 of the National Insurance Act 1965 on the discharge of the officer concerned and the period taken into account in fixing the amount of that payment includes any period of his pensionable service under that scheme, the smaller of the following two sums:—
 - (A) one-half of so much of that payment in lieu of graduated contributions as is referable to that period of pensionable service, and
 - (B) the estimated capital value (determined as aforesaid) of the pension rights which have accrued to him under that scheme in respect of that period of pensionable service.

(3) Except as provided in paragraph (2)(b) of this Article, the payment or payments comprised in the accrued pension rights of the officer concerned shall not be capable of surrender, commutation or assignment otherwise than in accordance with the rules of his pension scheme.

(4) The appropriate body may discharge its liability under paragraph (2)(a) of this Article by making such arrangements with a life assurance company as will secure to or in respect of the discharged officer concerned as from his reaching normal retiring age or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights.

(5) Except as aforesaid, the appropriate body shall be under no liability to or in respect of the discharged officer concerned by reason of any rights under or arising out of his membership of the scheme.

Transfer of pension rights

8.—(1) Subject to the provisions of this Order, this Article shall apply to (and only to) every discharged officer who at the date of his discharge is a participant in a funded scheme, or who, having immediately before entering the employment of the Commission been a participant in a funded scheme, is at the date of his discharge a member of a general scheme by virtue of Regulations made by the Minister under section 98 of the Transport Act 1947.

(2) In respect of any discharged officer to whom this Article applies, and who, within a period of 12 months from the date of his discharge, obtains other employment in connection with which he has pension rights under another pension scheme (being a scheme approved in whole or in part by the Commissioners of Inland Revenue under section 379 of the Income Tax Act 1952 or

otherwise approved by them for the purposes of this Article), the appropriate body may, subject to the provisions of this Article, make arrangements with the persons administering that other scheme and, in the case of a participant in a funded scheme, with the persons administering that scheme, for the transfer to the persons administering that other scheme of a sum which equals in amount either—

- (a) the transfer value at the date on which the arrangements are made of his pension rights as defined for the purposes of his existing scheme, or
- (b) in the absence of such a definition, the estimated capital value at that date of his accrued pension rights,

with compound interest from the date on which the arrangements are made until such transfer is made:

Provided that no such arrangements shall be concluded unless and until the appropriate body has communicated the terms thereof to the discharged officer concerned, has furnished him with a copy of a certificate given by the actuary of that other pension scheme certifying that the pension rights to be conferred on him under the arrangements, if made, will be actuarially equivalent to his accrued pension rights under his former scheme, and has obtained his consent to the making of the arrangements.

(3) The reference in paragraph (2) of this Article to compound interest shall be construed as a reference to compound interest at the same rate and with the same rests as were applied—

- (a) in a case where the sum to be transferred is that referred to in sub-paragraph (a) of the said paragraph, for the purposes of the last periodical actuarial valuation of the fund held for the purposes of the scheme; and
- (b) in any other case, for the purposes of calculating the estimated capital value of the accrued pension rights referred to in that paragraph.

(4) The sum to be transferred under any such arrangements as are referred to in paragraph (2) of this Article shall be determined by an actuary appointed by the appropriate body and the fees of any actuary so appointed shall be defrayed by the appropriate body.

(5) The persons administering any pension scheme to whom any sum is transferred under any such arrangements as are referred to in paragraph (2) of this Article shall indemnify the appropriate body or, where the sum is transferred in respect of a participant in a funded scheme, the persons in whom any fund held for the purposes of the funded scheme is vested, against any liability for the payment of income tax in respect of the sum so transferred.

(6) Notwithstanding anything to the contrary in any such scheme as is referred to in the foregoing provisions of this Article or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the appropriate body and the persons administering the scheme shall be authorised to make such arrangements (including the disposal of funds held for the purposes of any funded scheme) as are referred to in paragraph (2) of this Article and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

Avoidance of diminution in or loss of pension rights of officers who are not discharged

9.—(1) Subject to the provisions of this Order, this Article shall apply to every officer who is a member of a pension scheme under which he has pension rights in connection with his service in the employment of a nationalised transport body, and who (though not discharged) suffers a diminution of his emoluments, or a change in the nature or terms of his employment, by reason of a relevant event, the cause of such diminution or change having arisen not later than the end of 10 years after the date of the event in question.

(2) An officer to whom this Article applies as a result of a diminution of his emoluments may (without prejudice to any other power he may have in that behalf) with the consent of the appropriate

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body and the persons administering the pension scheme continue his premiums or contributions under the scheme and continue to have premiums or contributions paid in respect of him thereunder and to be entitled to the benefits thereof by reference to the amount of his emoluments before they were first so diminished; and notwithstanding anything to the contrary contained therein, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof, shall be construed accordingly and as though the provisions of this paragraph were a term of the scheme.

(3) An officer to whom this Article applies as a result of a change in the nature or terms of his employment, the change being such as would terminate his membership of the pension scheme, shall have the right, if he gives notice in writing to that effect to the persons administering the scheme within 3 months of the date of such change, to continue to be a member of the scheme so long as he remains in the employment of a nationalised transport body and to be treated as having been such from the date of such change and as subject to the like conditions as to payment of premiums or contributions and otherwise in all respects as if that change had not taken place; and notwithstanding anything to the contrary contained therein, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof, shall be construed accordingly and as though the provisions of this paragraph were a term of the scheme.

(4) Where an officer who is entitled to give notice under paragraph (3) of this Article to the persons administering a pension scheme does not give that notice within the time prescribed thereby, the provisions of this Order (other than Article 2) shall apply in respect of him as if he were a discharged officer and as if the date of the change in the nature or terms of his employment which entitles him to give the said notice were the date of his discharge.

Payment of contributions towards liability of appropriate body

10. Where by reason of any provision of this Order any liability falls upon the appropriate body for a pension scheme in respect of a discharged officer or an officer to whom Article 9 of this Order applies and—

- (a) in the case of a discharged officer, he was not an officer of, or of any subsidiary of, that body immediately before his discharge, and
- (b) in the case of an officer to whom Article 9 of this Order applies, he was not an officer of, or of any subsidiary of, that body immediately before the occurrence of the diminution of his emoluments or the change in the nature or terms of his employment,

then whichever of the following bodies, that is to say, the Railways Board, the Freight Corporation, the Bus Company, the Scottish Group and the Holding Company, was the body by which, or by the subsidiary of which, he was employed immediately before the discharge or occurrence aforesaid, shall make such payment by way of contribution to the liability of the appropriate body as may be just in all the circumstances; and if there is any disagreement between the bodies concerned as to the obligations of any such body as aforesaid under this Article, the matter shall, on the application of either body, be referred for decision to the Minister and the Secretary of State jointly, in a case involving the Scottish Group, or to the Minister in all other cases, and the decision of the Minister and the Secretary of State or the decision of the Minister (as the case may be) shall be final.

Determination of Disputes

11. Without prejudice to the provisions of Article 10 of this Order any question arising between the appropriate body and any person as to whether that person is a member of a pension scheme, and any question arising between the appropriate body and a member of a pension scheme as to the application or effect of any of the provisions of Articles 3(2), 5(1)(a), 5(3), 6(2), 7(2)(a) or 7(4) of this Order shall in default of agreement between the parties concerned be referred to a tribunal.

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Given under the Official Seal of the Minister of Transport the 13th December 1968.

L.S.

Richard Marsh
Minister of Transport

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

Dated the 17th December 1968

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EXPLANATORY NOTE

This Order deals with the preservation of the pension rights of persons who because of any of the various reorganisations in the nationalised transport industry provided for in the Transport Act 1968 either lose their employment or suffer diminution of emoluments or a change in the nature or terms of their employment.

In the case of a person who loses his employment, the pension accrued up to the date on which he was discharged is normally to be paid to him at age 65 (age 60 for a woman) or at such time as, by the terms of his employment or of his pension scheme, he would have been entitled to receive a pension (Articles 3(2), 5(1)(a), 6(2) and 7(2)(a)). A discharged person may, however, elect within 3 months of his discharge to have a return of contributions if the rules of his pension scheme permit this; but, if he does so, he will have no other rights under the Order (Article 2). Where the value of the accrued pension rights is small, the appropriate body as defined in Article 1(3) (or in the case of an insurance scheme, the life assurance company) may, in certain circumstances and at their option, commute their liability by an immediate lump sum payment (Articles 5(1)(b), 6(3) and 7(2)(b)).

The appropriate body may discharge its liability to preserve a discharged person's accrued pension rights by arranging for a life assurance company to make the payments at the appropriate time (Articles 5(3) and 7(4)).

In certain cases, where the new employment obtained by a discharged person is pensionable, the appropriate body may, with the prior agreement of the discharged person, pay or arrange for the payment to that person's new pension scheme of the sum representing the value of that person's rights in his former scheme (Article 8).

A person who does not lose his employment but who suffers a reduction in pay may be allowed to continue to contribute to, and benefit from, his pension scheme on the basis of his former pay. Similarly, if such a person is transferred from a pensionable to a non-pensionable grade he can, within 3 months, choose to remain in his pension scheme, though if he does not choose to do this his pension rights will be preserved in the same way as if he had been discharged (Article 9).

Provision is made for contributions between the nationalised transport bodies (Article 10) and for the settlement of disputes (Article 11).

The Order has effect from 18th November 1968, by virtue of S. 74(7) of the Transport Act 1962.