



Water Resources Act 1963

1963 CHAPTER 38

PART IX

TRANSFER OF UNDERTAKINGS OF RIVER BOARDS

97 Supplementary provisions as to pension rights

- (1) Any such statutory resolution as is mentioned in section 3(2)(b) of the Act of 1937 (which relates to servants and part-time officers of local authorities) which either—
 - (a) was passed by the board, or by virtue of section 29 (2) of the River Boards Act 1948 has effect as if passed by the board, and
 - (b) is in force immediately before the second appointed day,in so far as immediately before that day it applies to any person who on that day becomes a servant or part-time officer of the authority, shall continue in force and have effect as if it had been passed by the authority.
- (2) Any reference in this Part of this Act to obligations of the board shall be construed as including a reference to any customary obligations of the board in respect of pensions (including any customary obligations to which the board became subject by virtue of section 29 (6) of the River Boards Act 1948) notwithstanding that the board was under no legal obligation in respect of those pensions; and section 35 of the Act of 1937 (which provides for the reference of questions to the Minister for determination by him) shall apply to any question as to the existence or extent of any such customary obligations.
- (3) Without prejudice to the generality of the last preceding subsection, where immediately before the second appointed day it was the prevailing practice of the board to exercise beneficially (that is to say, so as to secure the payment of pensions or of increased pensions) any discretionary power exercisable by them by virtue of any such statutory provision as is mentioned in subsection (3) of the last preceding section, it shall, in relation to officers or servants to whom the said subsection (3) applies, be the duty of the authority to exercise that power (or any corresponding power under the statutory provisions relating to pensions for the time being in force) in a way which

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is not less beneficial than that practice; and section 35 of the Act of 1937 shall apply to any question arising under this subsection.

- (4) The provisions of the last preceding section shall not have effect in relation to any person who gave notice to the board under section 29(4) of the River Boards Act 1948 (which relates to officers and servants of river boards electing to retain their previous pension rights); and if such a fund as is mentioned in the said section 29(4) was maintained by the board, and by virtue of this Part of this Act is transferred to the authority, the authority shall apply the fund, in accordance with and to the extent specified in the scheme relating thereto, in supplementing the pensions payable by virtue of any such statutory provision as is mentioned in subsection (3) of the last preceding section to or in respect of the persons to whom the scheme applies.
- (5) Subsection (3) of the last preceding section shall not be construed as exempting the authority from any duty under any such statutory provision as is mentioned in that subsection to ascertain, record or notify the status of officers and servants of the authority, being a duty to which the authority would be subject if employment by the board and employment by the authority were not treated as one continuous employment.
- (6) Where at any time before the second appointed day a gratuity, by way of periodical payments or an annuity.—
- (a) was granted to any person by the board on his ceasing to be employed by the board, or
 - (b) was granted to the widow or any other dependant of a person who died while in the employment of the board, or who died during the currency of such a gratuity granted to him as mentioned in the preceding paragraph,
- and, if payment in respect of the gratuity had continued in accordance with the terms of the grant, one or more payments in respect of that gratuity would have been made by the board on or after the second appointed day, whether the board would have been obliged to make those payments or not, those payments shall be made by the authority.
- (7) Without prejudice to the last preceding subsection, where for the purposes of any such statutory provision as is mentioned in subsection (3) of the last preceding section the board (if this Act had not been passed) would at any time on or after the second appointed day have been the employing authority in relation to—
- (a) a person who before that day died while in the employment of the board, or otherwise ceased to be employed by the board, or
 - (b) the widow or any other dependant of such a person,
- the authority shall be treated as being at that time the employing authority for those purposes in relation to that person, or to that person's widow or other dependant, as the case may be.
- (8) In so far as express provision is made by the last preceding section, or by subsections (1) to (7) of this section, in relation to any matter, sections 5 and 94 of, and Schedule 3 to, this Act shall have effect subject to that express provision; but in all other respects the last preceding section, and subsections (1) to (7) of this section, shall not be construed as affecting the generality of sections 5 and 94 of, and Schedule 3 to, this Act.