



Transport Act 1980

1980 CHAPTER 34

PART III

RAILWAY ETC. PENSIONS

52 Payments by Minister in respect of B.R. and N.F.C pension schemes

- (1) Subject to the provisions of this section and section 58, the Minister shall, in relation to each B.R. or N.F.C. pension scheme and for each financial year, make to the persons administering the scheme payments equal in aggregate to the product of—
 - (a) the proportion determined under section 54(1) as the proportion of the relevant pension obligations which has not been funded;
 - (b) the proportion determined in relation to that year under section 55(1) as the proportion of the pensions, increases and expenses payable under or incurred in connection with the scheme which corresponds to those obligations; and
 - (c) the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for that year.
- (2) Where in the case of any such scheme the funding of the relevant pension obligations has, by virtue of subsection (3) of section 54, been left out of account in making a determination under subsection (1) of that section, the aggregate amount of the payments made under subsection (1) to the persons administering the scheme shall be reduced for each financial year—
 - (a) by the amount of any income accruing to the scheme for that year which may be applied towards the payment of such of the pensions, increases and expenses payable under or incurred in connection with the scheme as correspond to the obligations ; and
 - (b) in the case of the first financial year, by an amount equal to the value of the assets by which the obligations are funded.
- (3) Where, for any financial year, the aggregate amount of the payments made under subsection (1) to the persons administering any such scheme requires adjustment by reason of—

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- (a) any variation between the proportion finally determined under section 55(1) in relation to that year and the proportion previously so determined; or
- (b) any unforeseen increase or reduction in the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for that year,

that adjustment shall be made by increasing or, as the case may require, reducing the aggregate amount of the payments made under subsection (1) for the following financial year.

- (4) Payments under subsection (1) shall be made, so far as practicable, not later than the day on which the pensions, increases and expenses to which they relate fall to be paid or incurred.
- (5) The making of any payment under subsection (1) shall be subject to compliance with such conditions as to the keeping of records, the issue of certificates and the auditing of accounts as the Minister may with the approval of the Treasury determine.
- (6) Any sums required for making payments under subsection (1) shall be paid out of money provided by Parliament.

53 Meaning of " the relevant pension obligations "

- (1) In this Part " the relevant pension obligations ", in relation to a B.R. pension scheme, means subject to subsection (3).....
 - (a) any obligations of the Board which were owed on 1st January 1975 ("the operative date") in connection with the scheme ; and
 - (b) where any such obligation is one to pay or secure the payment of pensions, any obligation of the Board arising after the operative date to pay or secure the payment of increases of or sums representing accrued rights in respect of those pensions; and
 - (c) any obligation of the Board arising after the operative date to pay or secure the payment of increases payable under the scheme, being increases of pensions payable under any other pension scheme established before that date (whether a B.R. pension scheme or not).
- (2) In this Part " the relevant pension obligations ", in relation to an N.F.C. pension scheme, means subject to subsection (3)—
 - (a) any obligations of the successor company or a relevant subsidiary which were owed on 1st April 1975 (" the operative date ") in connection with the scheme ; and
 - (b) where any such obligation is one to pay or secure the payment of pensions, any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases of or sums representing accrued rights in respect of those pensions ; and
 - (c) any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases payable under the scheme, being increases of pensions payable under any other pension scheme established before that date (whether an N.F.C. pension scheme or not); and
 - (d) any obligation of the successor company or a relevant subsidiary which results from an amendment made to the scheme by virtue of section 74 of the Transport Act 1962 after the operative date and before 1st January 1980,

being (in each case) obligations which relate to employees or former employees of a relevant subsidiary or employees or former employees of the successor company or the Corporation who are or were employed as directors or managers of a relevant subsidiary.

- (3) The definitions in subsections (1) and (2) do not include
- (a) any obligation to pay or secure the payment of increases of pensions in excess of increases payable on official pensions under the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975 ;
 - (b) any obligation to pay contributions in respect of current periods of employment of a member of a scheme ;
 - (c) any obligation to pay expenses incurred in connection with the management of a scheme which is specifically imposed on the body by which it is owed;
 - (d) any obligation owed by a body in their capacity as the trustees of a scheme or the persons administering a scheme; and
 - (e) subject to subsection (4), any obligation in respect of which the body by which it is owed have a right to be indemnified by any other body.
- (4) Subsection (3)(e) does not apply—
- (a) in the case of an obligation owed by the Board, where the Board has a right to be indemnified by the successor company;
 - (b) in the case of an obligation owed by the successor company, where the successor company has a right to be indemnified by a relevant subsidiary ;
 - (c) in the case of an obligation owed by the successor company, where the successor company has a right to be indemnified by the Board and the obligation relates to employees or former employees of Freightliners Limited or employees or former employees of the successor company or the Corporation who are or were employed as directors or managers of Freightliners Limited;
 - (d) in the case of an obligation owed by a relevant subsidiary, where that subsidiary has a right to be indemnified by the successor company or by another relevant subsidiary ; and
 - (e) in the case of an obligation owed by Freightliners Limited, where Freightliners Limited has a right to be indemnified by the Board.
- (5) In this section "relevant subsidiary" means National Carriers Limited, Freightliners Limited and any subsidiary of National Carriers Limited.
- (6) For the purposes of this section—
- (a) any increase in an obligation which results from an amendment made to a scheme after the operative date shall be treated as a separate obligation; and
 - (b) where at any time, whether before or after the operative date, any pensions or increases payable under a B.R. or N.F.C. pension scheme are or have been paid by any person, that person shall be treated as being or as having been under an obligation at that time to make those payments.

54 Unfunded proportion of relevant pension obligations

- (1) The Minister shall, in relation to each B.R. or N.F.C. pension scheme—
- (a) determine, as soon as practicable after the passing of this Act, what proportion of the relevant pension obligations has not been funded ; and

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- (b) after consulting with the persons administering the scheme and the Board or, as the case may be, the successor company, confirm or vary that determination, before the end of the first financial year, by a further determination of that proportion contained in an order. \
- (2) Where at the time when a determination under subsection (1) falls to be made any class of the relevant pension obligations appear to be completely funded, that class of obligations and their funding may, if the Minister thinks fit, be left out of account in making that determination.
- (3) Where at the time when a determination under subsection (1) falls to be made the assets by which the relevant pension obligations are funded appear to be insufficient to meet such of the pensions, increases and expenses payable under or incurred in connection with the scheme for the first financial year as correspond to those obligations, that funding may, if the Minister thinks fit, be left out of account in making that determination.
- (4) An order under subsection (1)—
 - (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament; and
 - (b) may be varied or revoked by a subsequent order made before the end of the first financial year.
- (5) References in subsection (1) to a determination or further determination made by the Minister shall include references to a determination or further determination made by the actuary to the scheme and approved by the Minister.

55 Proportion of pensions, etc. which corresponds to relevant pension obligations

- (1) The Minister shall, in relation to each B.R. or N.F.C. pension scheme and for each financial year—
 - (a) determine, before the beginning of the year or, in the case of the first financial year, as soon as practicable after the passing of this Act. what proportion of the pensions, increases and expenses payable under or incurred in connection with the scheme corresponds to the relevant pension obligations; and
 - (b) confirm or vary that determination, from time to time during the year and as soon as practicable after the end of the year, by a further determination of that proportion.
- (2) Where in the case of any such scheme any class of the relevant pension obligations and their funding have, by virtue of subsection (2) of section 54, been left out of account in making a determination under subsection (1) of that section, that class of obligations shall not be regarded as relevant pension obligations for the purposes of any determination under subsection (1).
- (3) References in subsection (1) to a determination or further determination made by the Minister shall include references to a determination or further determination made by the actuary or auditor to the scheme and approved by the Minister.

56 Reduction of payments in respect of certain supplementation schemes

- (1) This section applies where, in relation to a B.R. or N.F.C. pension scheme (" the supplementation scheme "), the relevant pension obligations include obligations arising after the passing of this Act to pay or secure the payment of increases of

pensions payable under any other pension scheme, being a scheme established by the Board or the Corporation (" the basic scheme ").

- (2) If the actuary to the basic scheme certifies that the assets of that scheme exceed its liabilities, then, in relation to the supplementation scheme, any obligation arising after the date of the actuary's certificate to pay or secure the payment of any increases of pensions payable under the basic scheme or, if less, the relevant proportion of any such increases shall not be regarded as a relevant pension obligation for the purposes of any determination under section 55(1).
- (3) In subsection (2) "the relevant proportion", in relation to any increases, means, subject to subsection (4), the proportion (if any) certified by the actuary to the basic scheme to be the proportion of those increases which, if payable under that scheme, could be funded by 75 per cent, of the amount by which the assets of that scheme exceed its liabilities.
- (4) Where any obligation arising after the date of a certificate under subsection (3) is an obligation to pay or secure the payment of a proportion only of any increases to which the certificate relates, then, in relation to that obligation, the relevant proportion for the purposes of subsection (2) shall be given by the formula—

$$\frac{A+B-1}{A}$$

where A is the first mentioned proportion and B is the proportion certified by the actuary.

- (5) The Minister may direct the persons administering the basic scheme—
- (a) to arrange for the actuary to the scheme to certify whether or not the assets of the scheme exceed its liabilities ; and
 - (b) to send a copy of the actuary's certificate to the Minister ;
- but no direction shall be given under this subsection within the period of three years beginning with the giving by the actuary of such a certificate.
- (6) References in this section to the assets and liabilities of the basic scheme are references to the assets and liabilities of that scheme so far as it relates to the payment of pensions increases of which are or are likely to become payable under the supplementation scheme.

57 Exclusion of payments in respect of certain transfer values

Where the whole or any part of a person's accrued pension rights under a B.R. or N.F.C. pension scheme are transferred to any other pension scheme, being a scheme established by the Board or the successor company or any subsidiary of either of those bodies, the Minister may direct that for the purposes of—

- (a) any determination of the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the first-mentioned scheme ; and
- (b) any determination under section 55(1) in relation to that scheme,

it shall be assumed that the said rights had not been transferred and that the payment of any sum representing those rights had not been made.

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58 Consequential cancellation of debts owed by Board and Corporation

- (1) In consequence of the foregoing provisions of this Part—
- (a) the debts owed by the Board by virtue of sections 5 and 6 of the Railways Act 1974 (funding of the relevant pension obligations of the Board); and
 - (b) the debts owed by the Corporation by virtue of sections 19 and 20 of the Transport Act 1978 (funding of the relevant pension obligations of the Corporation),
- are hereby cancelled and those sections are hereby repealed.
- (2) Any payments in respect of the principal of or interest on any such debt—
- (a) which are made on or after 1st April 1980 and before the passing of this Act to the persons administering a scheme to which this subsection applies; and
 - (b) in respect of which the Minister reimburses the Board or, as the case may be, the Corporation,
- shall be deemed to be payments made to those persons in advance under section 52(1), and any money which is deemed to be money so paid, and any investments representing any such money, shall be left out of account in making any determination under section 54(1).
- (3) Subsection (2) applies to any B.R. or N.F.C. pension scheme other than one in the case of which the relevant pension obligations have been completely funded.
- (4) The Minister may discharge his liability to make any payment under section 52(1) to the persons administering a scheme to which subsection (2) applies by appropriating to that payment so much of any money which is deemed to be money paid to those persons in advance under section 52(1) as, with the appropriate interest thereon, is equal to the amount of that payment.
- (5) Any money which is deemed to be money paid in advance under section 52(1) shall carry interest for the period beginning with the date on which it was paid to the persons administering the scheme and ending with the date on which it is appropriated by the Minister at such rate as the Minister may with the consent of the Treasury determine.

59 Supplemental provisions

- (1) The making of any payment under section 52(1) to the persons administering any B.R. or N.F.C. pension scheme shall not discharge any relevant pension obligation so far as it is an obligation to pay pensions or increases of pensions under the scheme or is an obligation to secure the payment of those pensions or increases.
- (2) If the persons administering any such scheme or any other pension scheme established by the Board or the Corporation have no power to amend the scheme apart from this subsection, they may amend it by instrument in writing for the purpose of—
- (a) enabling them to pay increases of any pensions payable under the scheme ; or
 - (b) bringing the scheme into conformity with any provision of this Part;
- and the power of amending any such scheme apart from this subsection may for either purpose be exercised without regard to any limitations on the exercise of the power and without compliance with any procedural provisions applicable to its exercise.

60 Interpretation of Part III

- (1) In this Part—

Status: This is the original version (as it was originally enacted).

" the Board " means the British Railways Board;

" B.R. pension scheme " means any section of the British Railways Superannuation Fund specified in Schedule 8 or any other pension scheme so specified ;

" the Corporation " means the National Freight Corporation ;

" first financial year ", in relation to a B.R. or N.F.C. pension scheme, means such period as—

(a) begins on 1st April 1980; and

(b) ends with the last day of an accounting year of the scheme,

and is a period of not less than twelve months and less than two years, and " financial year ", in relation to any such scheme, means that period and each successive accounting year of the scheme ;

" N.F.C. pension scheme " means the National Freight Corporation (Salaried Staff) Pension Fund, the National Freight Corporation (b)ages Grades) Pension Fund or the N.F.C. (1978) Pension Fund ;

" pension ", in relation to a B.R. or N.F.C. pension scheme, means any pension, whether contributory or not, payable under the scheme to or in respect of any person and includes—

(a) a gratuity or lump sum so payable ;

(b) a return of contributions to the scheme, with or without interest thereon or any other addition thereto ;

(c) any sum payable under the scheme on or in respect of the death of any person ; and

(d) any sum payable under the scheme in respect of any person and representing the whole or any part of his accrued pension rights under the scheme;

" the relevant pension obligations " has the meaning given by section 53 ;

" subsidiary " has the same meaning as in the Transport Act 1962;

" the successor company " has the same meaning as in Part II.

(2) For the purposes of this Part—

(a) the B.R. (1974) Pension Fund shall be taken to comprise the pension schemes specified or described in the Schedule to the Central Trust deed within the meaning of the British Railways (Central Trust) Order 1974 ; and

(b) the N.F.C. (1978) Pension Fund shall be taken to comprise the pension schemes specified or described in the Schedule to the Central Trust deed within the meaning of the National Freight Corporation (Central Trust)' Order 1978.

(3) References in this Part to any pension scheme established by the Board include references to any scheme in relation to which the rights, liabilities and functions of the British Transport Commission were transferred to the Board by the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962.

(4) In relation to any time before the day appointed by the Minister for the purposes of Part II, references in this Part to the successor company shall be construed as references to the Corporation.