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## SCHEDULES

### SCHEDULE 6

Section 45.

#### SUPPLEMENTARY PROVISIONS WITH RESPECT TO TRANSFER UNDER SECTION 45

##### *Legal remedies and pending proceedings*

- 1 (1) Where any right, liability or obligation is transferred to the successor company by virtue of section 45 that company and all other persons shall, on and after the appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of that company.
- (2) Any legal proceedings by or against the Corporation which relate to any property, right, liability or obligation transferred to the successor company by virtue of section 45 and are pending on the appointed day, may be continued on and after that day by or against that company.
- (3) Any reference in sub-paragraph (1) or (2) to legal proceedings shall be construed as including a reference to any application to an authority, and any reference to the taking or resisting of legal proceedings shall be construed accordingly.

##### *Power of other bodies*

- 2 The transfer to the successor company by virtue of section 45 of the property, rights, liabilities and obligations of the Corporation shall have effect notwithstanding any statutory or other restriction on the powers of any other body affected by the transfer.

##### *Modification of agreements*

- 3 Where immediately before the appointed day there is in force an agreement which confers or imposes on the Corporation any rights, liabilities or obligations which are transferred to the successor company by virtue of section 45, that agreement shall have effect on and after that day as if—
  - (a) the successor company had been a party to the agreement; and
  - (b) for any reference (in whatever terms and whether expressly or by implication) to the Corporation there were substituted, in relation to anything falling to be done on or after that day, a reference to the successor company; and
  - (c) for any reference (in whatever terms and whether expressly or by implication) to an officer or employee of the Corporation, not being a party to the agreement and beneficially interested therein, there were substituted, in relation to anything falling to be done on or after that day, a reference to such person as the successor company may appoint or, in default of

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appointment, to the officer or employee of that company who corresponds as nearly as may be to the officer or employee of the Corporation.

*Loss of office by members of Corporation*

- 4 (1) Subject to sub-paragraph (2), no right, liability or obligation under any agreement for the rendering by any person of services to the Corporation as a member of the Corporation shall be transferred by virtue of section 45.
- (2) Sub-paragraph (1) does not apply to any liability for remuneration or allowances payable in respect of any period before the appointed day.
- (3) If it appears to the Minister that a person who was a member of the Corporation immediately before the appointed day should receive compensation for loss of office, he may, subject to sub-paragraph (4), require the successor company to pay that person such sum as the Minister, with the approval of the Minister for the Civil Service, may determine.
- (4) No such requirement as is mentioned in sub-paragraph (3) shall be made after the expiration of the period of three months beginning with the appointed day.

*Compensation payments arising from earlier reorganisations*

- 5 The obligations of the Corporation transferred by virtue of section 45 include any obligations of the Corporation to make payments under regulations made under section 135 of the <sup>M1</sup>Transport Act 1968 or section 2(4) of the <sup>M2</sup>Transport Holding Company Act 1972 (compensation for loss of employment, etc. in consequence of reorganisations under those Acts).

**Marginal Citations**

- M1** 1968 c. 73.  
**M2** 1972 c. 14.

*Pensions of former members of the Corporation*

- 6 The obligations of the Corporation transferred by virtue of section 45 include any obligation of the Corporation to comply with a determination of the Minister under paragraph 8(1) of Schedule 1 to the <sup>M3</sup>Transport Act 1962 relating to the pension (within the meaning of that Act) payable to or in respect of a former member of the Corporation.

**Marginal Citations**

- M3** 1962 c. 46

*Pension schemes*

- 7 (1) Subject to sub-paragraph (2), the provisions of section 74 of the Transport Act 1962 (Minister's powers to make provision about pensions in the nationalised transport industry) shall have effect on and after the appointed day as if—
- (a) the expression "Board" included the successor company; and

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- (b) the references in subsection (1)(a)(ii) of that section to the Commission included references to the Corporation; and
  - (c) the reference in subsection (2)(a) of that section to a pension scheme in which employees of the Commission, or a subsidiary of the Commission, participated before the date there mentioned included a reference to a pension scheme in which employees of, or of a subsidiary of, the Corporation participated before the appointed day.
- (2) Except on the application of the successor company, no order shall be made under the said section 74 on or after the appointed day which has the effect of placing the successor company or a subsidiary of the successor company in any worse position; but for this purpose the successor company or a subsidiary shall not be regarded as being placed in a worse position because an order provides that any changes in a pension scheme are not to be effected without the consent of the Minister.
- (3) An order such as is mentioned in sub-paragraph (2) which is made without the application of the successor company shall not be invalid because in fact it does not have the effect of securing that the successor company and its subsidiaries are not placed in any worse position, but except in so far as the successor company approves the effect of the order the Minister shall as soon as may be make the necessary amending order.
- (4) Subject to sub-paragraph (6), any order under the said section 74 and any regulations to which paragraph 17 of Schedule 7 to the <sup>M4</sup>Transport Act 1962 applies (which continues in force certain earlier pension provisions) which—
- (a) are in force immediately before the appointed day; and
  - (b) relate to the Corporation, its employees or its pensions schemes,
- shall continue in force, subject to any provision made by virtue of sub-paragraph (1), and as respects anything falling to be done on or after the appointed day shall have effect as if for any reference (however worded and whether express or implied) to the Corporation there were substituted a reference to the successor company.
- (5) A person who on the appointed day—
- (a) ceases to be employed by the Corporation and becomes employed by the successor company; or
  - (b) is employed by a company which immediately before the appointed day was a subsidiary of the Corporation but on that day becomes a subsidiary of the successor company,
- shall not thereby cease to be eligible to participate in any pension scheme in which he was a participant immediately before the appointed day.
- (6) Subject to sub-paragraph (5), a person who on or after the appointed day leaves or enters the employment of the group consisting of the successor company and its subsidiaries (in this sub-paragraph referred to as “the NFC group”) shall not be eligible by virtue of any provision of an order under the said section 74 made before that day—
- (a) to participate in any of the Corporation’s pension schemes by reason of any employment outside the NFC group; or
  - (b) to participate in a pension scheme other than one of the Corporation’s pension schemes by reason of his employment within the NFC group.
- (7) In this paragraph—
- (a) “participant”, in relation to a pension scheme, means—

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- (i) in relation to a scheme under which benefits are or will be receivable as of right, a person who has pension rights under the scheme (whether he has contributed or not); and
  - (ii) in relation to a scheme under which benefits are not or will not be receivable as of right, a person who (whether he is referred to in the scheme as a member, as a contributor or otherwise) has contributed under the scheme and has pension rights thereunder;
- and “participate” and “eligible to participate” shall be construed accordingly;
- (b) “pension”, “pension rights” and “pension scheme” have the same meaning as in section 74 of the <sup>M5</sup>Transport Act 1962; and
  - (c) references to the Corporation’s pension schemes are to schemes established by the Corporation or in relation to which the rights, liabilities and functions of the Transport Holding Company were transferred to the Corporation by the <sup>M6</sup>British Transport (Pensions of Employees) (No. 1) Order 1968.

**Marginal Citations**

- M4** 1962 c. 46.
- M5** 1962 c. 46.
- M6** S.I. 1968/2011.

*Grants in respect of certain capital expenditure*

- 8 (1) The obligations of the Corporation transferred by virtue of section 45 include any obligation to comply with terms and conditions attached to a grant made under section 18 of the <sup>M7</sup>Transport Act 1978 (grants in respect of capital expenditure by National Carriers Limited or its subsidiaries).
- (2) For the reference in that section to the Corporation there shall be substituted, as from the appointed day, a reference to the successor company.
- (3) In considering the exercise of his powers under that section in favour of the successor company, the Minister shall take into account any capital expenditure within that section not previously taken into account, including expenditure incurred before the appointed day; and the financial limits set by subsection (2) of that section shall apply in relation to such an exercise of the Minister’s powers as if grants made to the Corporation at any time before the appointed day had been made to the successor company at that time.

**Marginal Citations**

- M7** 1978 c. 55.

*Reimbursement for certain travel concessions*

- 9 (1) The obligations of the Corporation transferred by virtue of section 45 include any obligation to comply with terms attached to a payment made under section 21 of the Transport Act 1978 (reimbursement of amounts paid in connection with travel concessions enjoyed by certain employees and others).

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- (2) For the references in that section to the Corporation there shall be substituted, as from the appointed day, references to the successor company.
- (3) In considering the exercise of his powers under that section in favour of the successor company, the Minister shall take into account any amounts paid as mentioned in that section and not previously taken into account, including amounts paid by the Corporation and amounts paid in respect of concessionary travel enjoyed before the appointed day.

### *Rating*

- 10 (1) The obligations of the Corporation transferred by virtue of section 45 include any obligation of the Corporation under subsection (2) of section 162 of the <sup>M8</sup>Transport Act 1968 to make a payment to the British Railways Board in respect of any period of occupation before the appointed day by the Corporation or a subsidiary of premises which by virtue of subsection (1) of that section are to be treated for rating purposes as occupied by the Board.
- (2) If any dispute between the Board and the Corporation as to the amount so payable stands referred to the Minister immediately before the appointed day, it shall be dealt with thereafter as if the successor company had at all times been a party to the reference.
- (3) Any dispute arising on or after the appointed day between the Board and the successor company as to the amount due under the said subsection (2) shall be referred to the Minister for determination, and his determination shall be final.

#### **Marginal Citations**

**M8** 1968 c. 73.

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