



# Transport Act 1962

## 1962 CHAPTER 46

### PART II

#### DIVISION OF COMMISSION'S UNDERTAKING

##### *Property and functions*

#### **31 Distribution of Commission's assets**

- (1) Subject to this Act, on such date as the Minister may by order contained in a statutory instrument appoint (in this Act referred to as " the vesting date ") all the property, rights and liabilities of the Commission shall by virtue of this Act be transferred to and vest in the Boards and the Holding Company in accordance with this Part of this Act; and the property, rights and liabilities so transferred shall by virtue of this Act vest in those bodies respectively.
- (2) There shall be transferred to the Railways Board the property, rights and liabilities comprised in the part of the Commission's undertaking which constitutes—
  - (a) the Commission's railway system, except for so much of it as is carried on through or managed by the London Transport Executive or is within any of the harbours listed in Part II or Part III of the Third Schedule to this Act,
  - (b) the shipping services provided by the Commission in exercise of the powers conferred on them by the Railway Shipping Acts as defined in paragraph 2 of Part II of the Second Schedule to this Act,
  - (c) the harbours listed or described in Part I of the Third Schedule to this Act,
  - (d) the road passenger services provided by the Commission, except those carried on through or managed by the London Transport Executive,
  - (e) the British Transport Commission Police Force, and
  - (f) the Commission's Historical Records Department, the department for which their Curator of Historical Relics is responsible and their Films Service,and any property, rights and liabilities not falling to be transferred under any other provision in this Act.

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- (3) There shall be transferred to the London Board the property, rights and liabilities comprised in the part of the Commission's undertaking which is carried on through, or managed by, the London Transport Executive.
- (4) There shall be transferred to the Docks Board the property, rights and liabilities comprised in the part of the Commission's undertaking constituted by the harbours listed in Part II of the Third Schedule to this Act.
- (5) There shall be transferred to the British Waterways Board the property, rights and liabilities comprised in the part of the Commission's undertaking constituted by—
- (a) their inland waterways (other than the Lower Ouse Improvement, which under the last foregoing subsection vests in the Docks Board), and
  - (b) the harbours listed in Part III of the Third Schedule to this Act.
- (6) Notwithstanding anything in the foregoing provisions of this section, there shall be transferred to—
- the Railways Board,
  - the Docks Board,
  - the British Waterways Board, and
  - the Holding Company,
- the securities of the bodies listed in Parts I, II, III and IV of the Fourth Schedule to this Act respectively (so far as beneficially owned by the Commission), and the rights and liabilities specified in Part V of that Schedule so, however, that where such securities are beneficially owned by the Commission, but held by a nominee, this subsection shall operate only to transfer the beneficial interest in the securities.
- The references in this subsection to Parts I, II, III and IV of the Fourth Schedule to this Act shall have effect subject to Part VI of that Schedule.
- (7) Notwithstanding anything in the foregoing provisions of this section, there shall be transferred to the Boards and the Holding Company the property, rights and liabilities of the Commission specified for them respectively in the Fifth Schedule to this Act.
- (8) Any property, rights or liabilities held or subsisting partly for the purpose of a part of the Commission's undertaking which is under this Part of this Act transferred to one Board, and partly for the purpose of a part which is transferred to another Board, shall—
- (a) where the nature of the property, right or liability permits, be divided or apportioned between those Boards in such proportions as may be just, and
  - (b) in any other case, be transferred to those Boards jointly,
- and, where any estate or interest in land falls to be so divided, any rent payable under a lease in respect of that estate or interest, and any rent charged on that estate or interest, shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only the one part of the estate or interest and the other part is payable in respect of, or charged on, only the other part of the estate or interest.
- (9) The last foregoing subsection shall apply, with any necessary modifications, in relation to any feu duty payable in respect of an estate or interest in land in Scotland, as it applies in relation to any rent charged on an estate or interest in land.

## **32 Distribution of Commission's statutory functions**

- (1) The provisions of the Second Schedule to this Act shall as from the vesting date have effect with respect to the distribution among the Boards of the Commission's functions under the enactments there mentioned.
- (2) Subject to that Schedule, and to any other provision in this Act, the functions of the Commission under any statutory provision, other than the Transport Act, 1947, the Transport Act, 1953, and this Act, shall be transferred to the Board or Boards specified in the following provisions of this section.
- (3) If and so far as the statutory provision relates to an undertaking, or a part of an undertaking, or property transferred to a Board by this Part of this Act, the functions of the Commission under that statutory provision shall be transferred to that Board.
- (4) If and so far as the statutory provision authorises the carrying out of works designed to be used in connection with an undertaking or part of an undertaking transferred to a Board, or the acquisition of land for the purpose of carrying out such works, the functions of the Commission under that statutory provision shall be transferred to that Board.
- (5) If the statutory provision authorises the Commission to appoint, nominate, or concur in or approve the appointment or nomination of, a member of some body or the holder of some other office.—
  - (a) this Act shall not affect the tenure of office of any person appointed or nominated under the statutory provision before the vesting date, and
  - (b) subject to that, the functions of the Commission under the statutory provision shall be transferred to such Board as the Minister may direct by order contained in a statutory instrument.

An order under this subsection may provide for the function so transferred being exercised jointly by two or more Boards or separately by two or more Boards.

- (6) Subject to the foregoing provisions of this section, the functions of the Commission under any statutory provision, other than the Transport Act, 1947, the Transport Act, 1953, and this Act, shall be transferred to the Railways Board.
- (7) In this section references to the Commission include references to any Executive of the Commission, and references to statutory provisions include those passed or made between the passing of this Act and the vesting date.

## **33 The Commission's hotel property**

- (1) The Commission shall as soon as practicable after the passing of this Act arrange for the Commission's hotels to be transferred to a subsidiary of the Commission, that is to say—
  - (a) for the necessary steps to be taken under the Companies Act, 1948, for the formation of a company limited by shares which will be a subsidiary of the Commission and the objects of which will include the acquisition of the part of the Commission's undertaking constituted by their hotels, and
  - (b) for the transfer by the Commission, in consideration of the issue of shares in the company to the Commission, of that part of their undertaking to the company.

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- (2) The arrangements shall provide for the company taking either a freehold interest or leasehold interest in any hotel as may be appropriate, and the Commission shall endeavour to complete the arrangements under this section so far as practicable before the vesting date.
- (3) The Minister may give to the Commission directions as to what is to be included in the property and interests to be transferred to the subsidiary (which is in this Act referred to as " the Hotel Company") and the Commission shall before concluding the arrangements give to the Minister particulars of the property and interests which they propose to transfer under the arrangements.
- (4) On the vesting date there shall be transferred to and vest in the Railways Board by virtue of this Act—
- (a) the shares issued by the Hotel Company and owned by the Commission (so, however, that as respects securities beneficially owned by the Commission, but held by a nominee, this subsection shall operate only to transfer the beneficial interest in the securities), and
  - (b) any land which is subject to a lease granted by the Commission to the Hotel Company, and
  - (c) all rights and liabilities of the Commission enforceable against the Hotel Company, or by the Hotel Company, and in particular, all the rights and liabilities of the Commission under any contract for sale or lease to the Hotel Company, and
  - (d) the property, rights and liabilities of the Commission in the part of the undertaking to be transferred under this section to the Hotel Company so far as the transfer has not taken effect before the vesting date,
- and it shall be the duty of the Railways Board after the vesting date to complete the arrangements made by the Commission with the Hotel Company in pursuance of this section.
- (5) In the application of this section to Scotland—
- (a) in subsection (2), for the words " either a freehold interest or leasehold interest " there shall be substituted the words " either the Commission's whole interest or the interest of the vassal under a feu granted by the Commission or the interest of the lessee under a lease granted by the Commission "; and
  - (b) paragraphs (b) and (c) of subsection (4) shall apply in relation to a feu, or an agreement to feu, granted by the Commission to the Hotel Company as they apply in relation to a lease so granted.

### **34      Transfer of staff**

- (1) The foregoing provisions of this Part of this Act shall not apply to rights and liabilities under an agreement for the rendering of personal services by any person (hereinafter referred to as " an employee ").
- (2) The rights and liabilities of the Commission under any such agreement with an employee who immediately before the vesting date is employed exclusively for the purposes of any part of the Commission's undertaking transferred to the Railways Board, the Docks Board, or the British Waterways Board shall be transferred to that Board.

- (3) The rights and liabilities of the Commission under such an agreement with an employee who immediately before the vesting date is by virtue of paragraph (b) of subsection (9) of section five of the Transport Act, 1947, treated as being in the employment of the London Transport Executive shall be transferred to the London Board.
- (4) The rights and liabilities of the Commission under any agreement with an employee who immediately before the vesting date is employed exclusively for the purposes of the part of the Commission's undertaking passing to the Hotel Company shall be transferred to the Hotel Company.
- (5) The rights and liabilities of the Commission under any agreement with an employee who immediately before the vesting date is employed wholly or mainly for the purposes of the business of any of the bodies listed in Part IV of the Fourth Schedule to this Act shall be transferred to the Holding Company.

The reference in this subsection to Part IV of the Fourth Schedule to this Act shall have effect subject to Part VI of that Schedule.

- (6) The rights and liabilities of the Commission under any other such agreement shall be transferred to the Railways Board.
- (7) The Boards may before the vesting date enter into any arrangements with the Commission and any employee of the Commission for the determination of the employee's agreement on or before the vesting date and for the conclusion of a new agreement between the Board and the employee for the rendering of services to the Board, and the Commission may become a party to any arrangements between any of the Boards, or any other employer, and any of the Commission's employees for the transfer of those employees from the Commission to the new employer on or before the vesting date.
- (8) Any right to services transferred by this section shall have effect on and after the vesting date as a right not only to the service to which the agreement relates but also to any reasonably comparable service under the Board or company, to be selected by that body.

Any dispute between a Board or company and the other party to a service agreement as to what are reasonably comparable services for the purposes of this subsection may be reported to the Minister of Labour by the Board or company or the other party to the agreement and, if a dispute so reported is not otherwise disposed of, that Minister shall refer it for determination by the industrial court.

- (9) Any of the Boards and the said companies, and any person who is a party to any agreement which is modified by this section, may apply to the Minister to determine to which of the Boards or companies the rights and liabilities under any such agreement are transferred and the Minister's decision on the application shall be final.

### **35 Supplementary provisions relating to distribution of Commission's undertaking**

- (1) The Sixth Schedule to this Act (which contains further provisions regarding the distribution of the Commission's undertaking) shall have effect for the purposes of this Act.

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- (2) In the said Schedule the expression "the principal sections " means the foregoing sections of this Part of this Act, and references to those sections include references to any Schedule to this Act referred to in those sections.