

SIXTH SCHEDULE

DISTRIBUTION OF COMMISSION'S UNDERTAKING

Construction of Agreements, Statutory Provisions and Documents

- 2 (1) On and after the vesting date any agreement to which the Commission were a party immediately before the vesting date, whether in writing or not, and Whether or not of such nature that rights and liabilities thereunder could be assigned by the Commission, shall have effect as if—
- (a) (the successor Board had been a party to the agreement, and
 - (b) for any reference (however worded and whether express or implied) to 'the Commission there were substituted, as respects anything falling to be done on or after the vesting date, a reference to the successor Board, and
 - (c) any reference (however worded and whether express or implied) to any officer or any servant of the Commission were, as respects anything falling to be done on or after the vesting date, a reference to such person as the successor Board may appoint or, in default of appointment, to the officer or servant of the successor Board who corresponds as nearly as may be to the first-mentioned officer or servant, and
 - (d) where the agreement relates to property, rights or liabilities which under the principal sections fail to be apportioned or divided or distributed between two or more Boards, as if the agreement constituted two or more separate agreements separately enforceable by and against each of the respective Boards as regards the part of the property, rights and liabilities vesting in that Board and not as regards the other part, and paragraph (d) of this sub-paragraph shall apply in particular to the covenants, stipulations and conditions of any lease by or to the Commission.
- (2) Save as otherwise provided by any provision in this Act (whether expressly or by necessary implication), the foregoing sub-paragraph (except paragraph (a)) shall apply in relation to any statutory provision, any provision of any agreement to which the Commission were not a party, and any provision of any other document not being an agreement, as it applies in relation to an agreement to which the Commission were a party, and, in relation to any such statutory or other provision as aforesaid, references in paragraphs (b) and (c) of that sub-paragraph to the Commission and to any officers or servants of the Commission include references made by means of a general reference to a class of persons of which the Commission are one, without the Commission themselves being specifically referred to.
- (3) On and after the vesting date any statutory provision passed or made, and any agreement or other instrument executed, before the date of transfer under Part II of the Transport Act, 1947, which by virtue of that Act contains a reference to the Commission instead of a reference to some other body shall have effect as if—
- (a) for any reference (however worded and whether express or implied) which before the said date of transfer was a reference to the directors or any director of the body were, as respects anything falling to be done on or after the vesting date, a reference to such person as the successor Board may appoint, and
 - (b) subject to the foregoing provisions of this paragraph, any reference (however worded and whether express or implied) which before the said date of transfer was a reference to the undertaking of the body were, as respects

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

a period beginning with the vesting date, a reference to so much of the undertaking of the successor Board as corresponds to the undertaking of the first-mentioned body.

- (4) Without prejudice to the generality of the foregoing provisions of this paragraph, where by the operation of this Act any right or liability becomes a right or liability of a Board, the Board and all other persons shall, as from the date when the right or liability is transferred, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any Authority) for ascertaining, perfecting or enforcing that right or liability as they would have had if it had at all times been a right or liability of the Board, and any legal proceedings or applications to any Authority pending on the said date by or against the Commission, in so far as they relate to any property, right or liability transferred to the Board under or in pursuance of this Act, or to any agreement or enactment to which this Act applies, shall be continued by or against the Board to the exclusion of the Commission.
- (5) If the effect of any agreement, and in particular any agreement under the Railway Road Transport Acts of 1928 mentioned in paragraph 1 of Part II of the Second Schedule to this Act, which was executed before the passing of this Act and to which any Board is by virtue of this Act a party depends on whether that Board has power to carry on any activity, it shall be assumed for the purposes of the agreement that any activity which requires the consent of the Minister under this Act has been authorised by such a consent.
- (6) In this paragraph " the successor Board " means—
- (a) so far as the relevant agreement, statutory provision or other document relates to property, rights or liabilities or functions transferred under or in pursuance of this Act to one of the Boards, that Board,
 - (b) so far as the agreement, statutory provision or other document relates to property, rights or liabilities or statutory functions transferred under or in pursuance of this Act to two or more of the Boards, those Boards, but taken as a reference to both or all of those bodies, or to either or any of them separately, as the context may require, and
 - (c) in any other case, such Board as the Minister may direct,
- and in this paragraph references to agreements to which the Commission were a party and to statutory provisions, include in particular references to agreements to which the Commission became a party by virtue of the Transport Act, 1947, and statutory provisions which applied to the Commission by virtue of that Act.
- (7) In this paragraph references to the Boards include references to the Holding Company.
- (8) The provisions of this paragraph shall have effect for the interpretation of agreements, statutory provisions and other instruments subject to the context, and shall not apply where the context otherwise requires.
- (9) In this paragraph references to the Commission include references to any Executive of the Commission.