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STATUTORY INSTRUMENTS

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**1968 No. 2011**

**The British Transport (Pensions  
of Employees) (No. 1) Order 1968**

**PART I**

**PRELIMINARY**

**Commencement, citation and interpretation**

**1.**—(1) This Order shall come into operation on the 31st December 1968 and, except as mentioned in paragraph (2) of this Article, shall have effect from the 18th November 1968.

(2) Article 6 and Articles 8 to 12 of this Order shall have effect from the 31st December 1968.

(3) This Order may be cited as the British Transport (Pensions of Employees) (No. 1) Order 1968.

(4) In this Order, unless the context otherwise requires—

“the Act” means the Transport Act 1968;

“appropriate body”, in relation to an established scheme, means—

- (i) where the scheme is one in relation to which the property, rights and liabilities of the Holding Company are transferred by Part IV of this Order, the nationalised transport body to which they are so transferred,
- (ii) where a scheme does not fall within (i) above but is a scheme in relation to which the responsibility for making payments was placed, or the rights, liabilities and functions of the British Transport Commission were transferred, by the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962<sup>(1)</sup> or the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962<sup>(2)</sup> (as the case may be), the nationalised transport body (or if more than one, any one of those bodies) on which that responsibility rests, or in which those rights, liabilities and functions are vested, immediately after the 1st January 1969,
- (iii) where the scheme does not fall within (i) or (ii) above but is a scheme in which employees of a nationalised transport body which is a subsidiary of a Board or the Holding Company are participating immediately before the 1st January 1969, whichever of the following bodies, namely, a Board, a new authority and the Holding Company, is the body of which the said nationalised transport body is a subsidiary immediately after the 1st January 1969,
- (iv) in all other cases, the nationalised transport body which has established the scheme;

“Board” means any of the following bodies, namely—

- the British Railways Board,
- the London Transport Board,

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(1) (1962 III, p. 3692).

(2) (1962 III, p. 3866).

the British Transport Docks Board, and  
the British Waterways Board;

“the Bus Company” means the National Bus Company established under section 24 of the Act;

“established scheme” has the meaning given to that expression in Article 2(1) of this Order;

“the freightliner company” and “the freight sundries company” mean the companies so referred to in section 5(2) of the Act;

“the Freight Corporation” means the National Freight Corporation established under section 1 of the Act;

“the Holding Company” means the Transport Holding Company;

“the Minister” means—

- (a) for the purposes of matters relating only to the Scottish Group (including any subsidiary of that Group), the Secretary of State,
- (b) for the purposes of matters relating both to the Scottish Group (including any subsidiary as aforesaid) and to other nationalised transport bodies, the Minister of Transport and the Secretary of State acting jointly, and
- (c) for all other purposes, the Minister of Transport;

“member”, in relation to a pension scheme, means a person who has pension rights thereunder whether or not he is a participant therein, and “membership” shall be construed accordingly;

“nationalised transport body” means any of the following—

- (a) a Board,
- (b) the Holding Company,
- (c) a new authority,
- (d) a subsidiary of a Board, the Holding Company or a new authority;

“new authority” means any of the following bodies, namely—

the Freight Corporation,  
the Bus Company, and  
the Scottish Group;

“past member”, in relation to a pension scheme, means a member whose pensionable service has ceased;

“the Railways Board” means the British Railways Board;

“the Scottish Group” means the Scottish Transport Group established under section 24 of the Act;

“subsidiary”, in relation to a nationalised transport body, has the same meaning as in the Transport Act 1962, and in this connection no account shall be taken of the provisions of section 51(5) of the Act;

“term”, in relation to a pension scheme, includes any rule or provision of the scheme, or of any statutory provision relating to the scheme, or of any trust deed or other instrument made for the purposes of the scheme; and

“transport pension scheme” means a pension scheme which relates in whole or in part to the provision of pensions in respect of service rendered in the employment of a nationalised transport body.

(5) Unless the context otherwise requires, references in this Order to the provisions of any enactment or instrument shall be construed as references to those provisions as amended, re-enacted or modified by or under any subsequent enactment or instrument.

(6) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

### **Application of the Order**

**2.**—(1) This Order applies to every established scheme, that is to say, to every transport pension scheme which is in existence on the 1st January 1969 and which is either—

- (a) an existing scheme within the meaning of the British Transport Re-organisation (Pensions of Employees) (No. 1) Order 1964<sup>(3)</sup>, or
- (b) a pension scheme established under section 74 of the Transport Act 1962, or
- (c) any other pension scheme in which employees of, or of a subsidiary of, the Railways Board or the Holding Company are participating immediately before the 1st January 1969.

(2) Every established scheme shall, subject to the provisions of paragraph (3) of this Article, be construed and have effect as if the provisions of this Order were terms of the scheme, any other term thereof, whether express or implied, to the contrary notwithstanding, and each nationalised transport body shall, for the purposes of giving effect to this Order, be bound by the terms of every such scheme.

(3) The rights to continue to participate in or to enter or re-enter an established scheme given by this Order shall be additional to any similar rights existing under the terms of that scheme apart from the provisions of this Order and nothing in this Order shall derogate from such rights where they subsist.

## **PART II**

### **ADAPTATION AND EXTENSION OF CERTAIN ORDERS**

#### **Extension of inter-availability of pension schemes**

**3.** The British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964 (which enables employees of one nationalised transport body to continue to participate in, or to re-enter, pension schemes of another nationalised transport body) (except Article 5 thereof) shall have effect as if—

- (a) the expression “Board” therein included each of the new authorities,
- (b) the expression “existing scheme” therein included any established scheme,
- (c) the expression “the Minister” therein had the same meaning as in this Order,
- (d) in relation to any established scheme, the expression “successor body” therein had the same meaning as the expression “appropriate body” has in this Order, and
- (e) in relation to a scheme where the property, rights and liabilities of the Holding Company are transferred by Part IV of this Order, the expression “the appropriate Transfer Order” therein included this Order.

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(3) (1964 II, p. 3034).

### **Contribution obligations of nationalised transport bodies and pension rights of persons who become members or directors of such bodies**

4. Articles 13, 14 and 16 of the British Transport Reorganisation (Pensions of Employees) (No.3) Order 1962<sup>(4)</sup> (which make provision for one nationalised transport body to make contributions to another such body and for preserving the pension rights of certain persons who become members or directors of a nationalised transport body), and Article 1 of that Order (which contains definitions) in its application to the said Articles 13, 14 and 16, shall have effect as if—

- (a) the expression “Board” therein included each of the new authorities,
- (b) the expression “existing scheme” therein included any established scheme,
- (c) the expression “the Minister” therein had the same meaning as in this Order,
- (d) in relation to any established scheme, the expression “successor body” therein had the same meaning as the expression “appropriate body” has in this Order, and there were substituted for so much of the definition of the expression “responsible employing body” therein as relates to a past member of an existing scheme, the following—

“(b) for a past member of an existing scheme, the nationalised transport body in which is vested under such one or more of the following Acts as may be relevant, that is to say, the Transport Act 1947 the Transport Act 1962 and the Transport Act 1968, the particular undertaking, or the particular part of an undertaking (as the case may be), in connection with which he was employed immediately before his pensionable service ended,”

and

- (e) in the said Article 14—
  - (i) the expressions “the provisions of this Order” and “the foregoing provisions of this Order” included the provisions of the present Order,
  - (ii) the references to liabilities or functions transferred to a body under that Order included a reference to liabilities or functions transferred to a body by this Order or otherwise falling to be borne or exercised by a body in consequence of this Order, and
  - (iii) in relation to a scheme where the property, rights and liabilities of the Holding Company are transferred by Part IV of this Order, the references to a power which immediately before the vesting date was exercisable by the Commission included a reference to a power which immediately before the 1st January 1969 was exercisable by the Holding Company.

## **PART III**

### **ADDITIONAL ELIGIBILITY**

#### **Persons having no pension rights under an established scheme and becoming employees of a new authority or of certain subsidiaries before 1st January 1969**

5. Where a person who has no pension rights under an established scheme enters before the 1st January 1969 the employment of a new authority or of the freightliner company or the freight-sundries company after leaving the employment of the Railways Board, the Holding company or a subsidiary of that Board or Company, he shall be eligible to become a member of that established scheme to the same extent and on the same basis as he would have been so eligible if, instead of entering the employment of that new authority or company, he had been continuing in comparable

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(4) (1962 III, p. 3866).

employment of the Railways Board, the Holding Company or the subsidiary of that Board or Company (as the case may be).

### **Certain transfers not to affect eligibility to join pension schemes**

6. Where, by reason of a transfer under any of the following provisions of the Act, namely, sections 4(1), 4(4), 5(3)(a) or (b), 7(5) or (6), 8(4), 28(1), (2) or (5), 29(2) or 53(2), a person ceases to be employed by one nationalised transport body and becomes employed by another such body, or the employer of a person ceases to be a subsidiary of one nationalised transport body and becomes a subsidiary of another such body, and that person is not, immediately before the transfer, a member of an established scheme, then he shall, notwithstanding the transfer, be eligible to become a member of that established scheme to the same extent and on the same basis as he would have been so eligible if the transfer had not occurred.

### **Designation of pension schemes for employees or new authorities or their subsidiaries, if no other pension schemes are available**

7. Where on or after the 18th November 1968 a person enters any employment specified in the Table below (whether by reason of becoming an employee of a particular nationalised transport body or by reason of a change in the terms and conditions of his existing employment by such a body) and apart from the provisions of this Article that person would not be eligible to become a member of a transport pension scheme appropriate to the employment which he is entering, then he shall be eligible to become a member of the established scheme specified in that Table in relation to that employment:—

**TABLE**

Employment	Established Scheme
1. Employment by the Freight Corporation or by a subsidiary of that Corporation (not being a body mentioned at 5 below) on terms and conditions which would have created eligibility for membership of the scheme opposite if the employment entered had been that of British Road Services Limited.	British Road Services (Salaried Staff) Group Superannuation Fund.
2. Employment by any of the bodies at 1 above on terms and conditions which would have created eligibility for membership of the scheme opposite if the employment entered had been that of British Road Services Limited.	British Road Services (Male Wages Grades) Group Pension Fund.
3. Employment by the Bus Company or by a subsidiary of that Company on terms and conditions which would have created eligibility for membership of the scheme opposite if the employment entered had been that of Tilling Association Limited.	Tilling Group Pension Fund.
4. Employment by the Scottish Group or by a subsidiary of that Group on terms and conditions which would have created eligibility for membership of the scheme opposite if the employment entered had been that of Scottish Bus Group Limited.	Scottish Bus Group Pension Fund.
5. Employment by the freightliner company or the freight-sundries company or by a subsidiary of either of those companies on terms and conditions which would have created	London and North Eastern Railway Superannuation Fund.

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Employment	Established Scheme
eligibility for membership of the scheme opposite if the employment entered had been that of the Railways Board.	
6. Employment by any of the bodies mentioned at 5 above on terms and conditions which would have created eligibility for membership of the scheme opposite if the employment entered had been that of the Railways Board.	British Railways (Wages Grades) Pension Fund.

## PART IV

### TRANSFER OF RIGHTS AND LIABILITIES OF HOLDING COMPANY

#### Application of Part IV

**8.—(1)** This Part of this Order makes provision, in the case of the transfers mentioned in paragraph (2) of this Article, for the transfer of property, rights and liabilities of the Holding Company relating to pensions and pension schemes.

(2) The transfers referred to in paragraph (1) of this Article are the transfers of securities, rights and liabilities of the Holding Company—

- (a) to the Freight Corporation under section 4(1) or (4) of the Act,
- (b) to the Bus Company under section 28(1) or (5) of the Act, and
- (c) to the Scottish Group under section 28(2) or (5) of the Act.

#### Transfer of property, rights and liabilities

**9.—(1)** The property, rights and liabilities of the Holding Company relating to the established schemes which are specified in Parts 1, 2 and 3 of the Schedule to this Order (including any functions of that Company in relation to those schemes and any securities or other property held by that Company in trust for those schemes) shall be respectively transferred to the Freight Corporation, the Bus Company and the Scottish Group.

(2) All such property, rights and liabilities of the Holding Company (including as aforesaid) relating to the Railway Clearing System Superannuation Fund Scheme as were transferred to that Company by the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962 shall be transferred to the Freight Corporation.

#### Transfer of certain liabilities

**10.—(1)** The liability of the Holding Company to make, in relation to any such person as is mentioned in this paragraph, payments or contributions to some other nationalised transport body under any of the provisions mentioned in paragraph (2) of this Article shall be transferred to the Freight Corporation, the Bus Company or the Scottish Group according as the person in relation to whom the payments or contributions fall to be made becomes, on the date of the relevant transfer mentioned in Article 8(2) above, an employee of such body or of a subsidiary of such body, or would then have become such an employee had he been in the employment of a nationalised transport body immediately before that date.

(2) The provisions referred to in paragraph (1) of this Article are the provisions of—

- (a) Article 5 of the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1962<sup>(5)</sup>,
- (b) Articles 13 and 14 of the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962<sup>(6)</sup>,
- (c) Article 10 of the British Transport Reorganisation (Pensions of Employees) (No. 4) Order 1962<sup>(7)</sup>,
- (d) Articles 7 and 8 of the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964.

### **General provisions as to transfers**

**11.**—(1) All the transfers of property, rights and liabilities of the Holding Company provided for in this Part of this Order shall take place on the 1st January 1969 and shall be transfers subject to the provisions of this Order, and the property, rights and liabilities hereby transferred shall by virtue of this Order vest on that date in the bodies to which they are respectively transferred.

(2) The provisions of paragraphs 7 to 13 of Schedule 4 to the Act (so far as relevant) shall apply in relation to the transfers provided for in this Part of this Order but subject to the following modifications, that is to say,

the word “agreement” in those paragraphs shall include any trust deed, rules or other instrument relating to an established scheme, and the references to rights or liabilities in those paragraphs shall include references to functions.

(3) Nothing in this Part of this Order shall affect the tenure of office of any person appointed or nominated by the Holding Company before the 1st January 1969 in the exercise of any power conferred on that Company by any term of an established scheme or otherwise exercisable by that Company in relation to an established scheme.

## **PART V**

### **PAYMENT OF PENSIONS BY NEW AUTHORITIES AND THEIR SUBSIDIARIES**

#### **Consent of Minister to payment of pensions**

**12.**—(1) Except as provided by this Article, a new authority and any subsidiary of a new authority shall not without the consent of the Minister pay any pension or enter into any obligation under a pension scheme.

(2) Paragraph (1) shall not apply to—

- (a) the payment of any pension in accordance with the terms of an established scheme as those terms stand immediately after the 1st January 1969 or are subsequently modified with the consent of the Minister, or
- (b) the payment of any pension in pursuance of an obligation under a pension scheme entered into with the consent of the Minister after the said date, being a payment in accordance with that obligation as it subsists when first entered into or as it is subsequently modified with the said consent.

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<sup>(5)</sup> (1962 III, p. 3688).

<sup>(6)</sup> (1962 III, p. 3866).

<sup>(7)</sup> (1962 III, p. 4020).

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(3) Any consent given by the Minister for the purposes of this Article may be given for any case or description of case specified in the consent and may be given subject to conditions.

Given under the Official Seal of the Minister of Transport the 13th December 1968.

L.S.

*Richard Marsh*  
Minister of Transport

*William Ross*  
One of Her Majesty's Principal Secretaries of  
State

Dated the 17th December 1968