

## 1971 No. 116

## TRANSPORT

## PENSIONS AND COMPENSATION

**The National Freight Corporation (Alteration of Pension Schemes) (No. 1) Order 1971**

<i>Made</i> - - - -	25th January 1971
<i>Laid before Parliament</i>	29th January 1971
<i>Coming into Operation</i>	31st January 1971

The Secretary of State for the Environment, in exercise of his powers under section 74 of the Transport Act 1962(a) as read with section 136 of the Transport Act 1968(b) and of all other enabling powers, hereby makes the following Order:—

*Commencement, citation and interpretation*

1.—(1) This Order shall come into operation on the 31st January 1971, and may be cited as the National Freight Corporation (Alteration of Pension Schemes) (No. 1) Order 1971.

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

“the Corporation” means the National Freight Corporation;

“funded scheme” means a pension scheme (not being an insurance scheme) where the pensions are payable out of a fund held by any person for the purposes of the scheme;

“insurance scheme” means a pension scheme where the pensions are provided by means of contracts or policies made or effected with an insurance company carrying on life assurance business within the meaning of the Insurance Companies Act 1958(c) (including contracts or policies made or effected with such a company for the purpose of implementing any form of private superannuation fund);

“the Male Wages Grades Scheme” means the pension scheme established by the British Transport Commission (Male Wages Grades Pensions) Regulations 1954(d), as amended(e), (as that scheme now has effect subject to the provisions of any Order made under section 74 of the Transport Act 1962);

“the New Fund” means the National Freight Corporation (Wages Grades) Pension Fund which is a funded pension scheme established by the Corporation, with the consent of the Secretary of State, under the terms of an Interim Trust Deed executed by the Corporation and N.F.C. Trustees Limited on the 12th January 1971;

“the persons administering”, in relation to a pension scheme, means the persons responsible for administering the scheme under the terms thereof, and includes the trustees (if any) of the scheme;

“the service” means whole time employment with the Corporation or with a subsidiary of the Corporation; and

(a) 1962 c. 46. (b) 1968 c. 73. (c) 1958 c. 72. (d) S.I. 1954/898 (1954 I, p. 175).  
(e) S.I. 1957/1455, 1960/784 (1957 I, p. 177; 1960 I, p. 430).

“term”, in relation to a pension scheme to which this Order applies, includes any rule or provision of the scheme, or of any statutory provision relating to the scheme, or of any deed or other instrument made for the purposes of the scheme.

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

#### *Application of Order*

2.—(1) This Order shall apply to the New Fund, the Male Wages Grades Scheme and the other pension schemes mentioned in this Order.

(2) A pension scheme to which this Order applies shall be construed and have effect as if the relevant provisions of this Order were terms of the scheme, any other term thereof, whether expressed or implied, to the contrary notwithstanding.

#### *Application of interavailability provisions to New Fund*

3. The provisions of the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964(b) (so far as applicable) and of Articles 3 and 4 of the British Transport (Pensions of Employees) (No. 1) Order 1969(c) (which relate to the interavailability of pension schemes in the publicly owned transport industry) shall on and after the 1st February 1971 apply in relation to the New Fund as if that fund were an established scheme as defined in Article 2 of the said (No. 1) Order of 1969.

#### *Alterations in the terms of the Male Wages Grades Scheme*

4.—(1) This Article shall apply to the Male Wages Grades Scheme.

(2) Any person in the service who is a member of the Male Wages Grades Scheme and who becomes a member of the New Fund on or after the 1st February 1971 shall, on becoming such a member, cease to be a member of the Male Wages Grades Scheme.

(3) The terms of the Male Wages Grades Scheme which require persons to become members of Section B of that Scheme shall not apply to—

(a) any person referred to in paragraph (2) of this Article, or

(b) any other person who becomes a member of the New Fund on or after the 1st February 1971.

(4) A person who becomes a member of the New Fund on or after the 1st February 1971 shall at all times after becoming a member thereof be ineligible for membership of either Section A or Section B of the Male Wages Grades Scheme.

(5) Where a person ceases to be a member of the Male Wages Grades Scheme under the foregoing provisions of this Article, the New Fund shall be credited by the Corporation with a sum equal to the contributions paid by such person to the Male Wages Grades Scheme.

(6) Where under the foregoing provisions of this Article a person who has a right of re-admission to the Male Wages Grades Scheme becomes ineligible for membership thereof, that right of re-admission shall terminate.

#### *Alterations in the terms of certain schemes for providing pensions and other benefits*

5.—(1) This Article shall apply to the pension schemes listed in Schedule 1 to this Order.

(a) 1889 c. 63. (b) S.I. 1964/1329 (1964 II, p. 3034). (c) S.I. 1969/1824 (1969 III, p. 5668).

(2) A person who becomes a member of the New Fund on or after the 1st February 1971 shall, so long as he is a contributing member of the New Fund, be ineligible for membership of a pension scheme to which this Article applies.

(3) Where a member of a pension scheme to which this Article applies becomes a member of the New Fund on or after the 1st February 1971, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall cease to be a member of that pension scheme, his right to receive benefit from that scheme shall cease, and (except as hereinafter provided) his liability to pay contributions to that scheme (where the scheme is a contributory scheme) shall cease; and

(b) as soon as may be after that date the persons administering that pension scheme shall pay to the New Fund an appropriate transfer value in respect of the accrued pension rights of that member in that scheme.

(4) Where under the foregoing provisions of this Article a person who has a right of re-admission to a pension scheme to which this Article applies becomes ineligible for membership thereof, that right of re-admission shall not be exercisable so long as the ineligibility continues.

#### *Alterations in the terms of certain insurance schemes*

6.—(1) This Article shall apply to the pension schemes listed in Schedule 2 to this Order.

(2) Where a member of a pension scheme to which this Article applies becomes a member of the New Fund on or after the 1st February 1971, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall (subject to this Order) cease to be liable to pay contributions to that scheme; and

(b) as soon as may be after that date the Corporation shall make such arrangements as may be appropriate to secure to that member by means of insurance policies his accrued pension rights in that scheme.

(3) Any such insurance policy as is referred to in paragraph (2) of this Article may provide that the policy may be surrendered, by or at the request of the member in whose favour it is issued, upon condition that the sum payable as consideration for the surrender is paid to the New Fund, but in all other respects every such insurance policy shall be non-assignable and non-commutable.

#### *Alteration as respects a part of a particular pension scheme*

7.—(1) This Article shall apply to the pension scheme known as the London, Midland and Scottish Railway (London and North Western) Provident and Pension Society and Supplemental Pension Fund.

(2) Where a member of the pension scheme to which this Article applies becomes a member of the New Fund on or after the 1st February 1971, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall cease to be entitled to receive from that scheme any benefit payable on retirement or death and (subject to this Order) such adjustment as may be appropriate shall be made in respect of the liability of that member to pay contributions to that scheme after that date; and

(b) as soon as may be after that date the persons administering that pension scheme shall pay to the New Fund an appropriate transfer value in respect of the accrued pension rights of that member in that scheme to such benefits.

#### *Ascertainment of transfer values*

8.—(1) Where under any of the foregoing provisions of this Order there falls to be paid in relation to a member of a pension scheme to which this Order applies a transfer value in respect of his accrued pension rights in that scheme, then—

- (a) if the scheme is a funded scheme, the amount to be paid shall be ascertained by first determining the portion of the funds of that scheme properly attributable to the accrued pension rights of that member in that scheme and then by deducting therefrom such sum as may be necessary to cover the cost actually incurred by the persons administering that scheme in making the apportionment and the payment and also an amount equal to any income tax which may then become payable by virtue of regulations made, or having effect as if made, under section 208 of the Income and Corporation Taxes Act 1970(a);
- (b) if the scheme is not a funded scheme, the amount to be paid shall be ascertained by first determining a sum representing the value of the accrued pension rights of that member in that scheme and then by deducting therefrom such sum as may be necessary to cover the cost actually incurred by the persons administering that scheme in making the determination and the payment.

(2) Any payment of a transfer value under any provision of this Order may take the form of a transfer of securities, deposits or other assets, valued as at the date of the transfer, and any question whether a transfer value shall be paid in cash or in the form of such a transfer as aforesaid shall be determined in each case when the transfer value falls to be paid.

#### *Consequential provisions*

9.—(1) Where under the foregoing provisions of this Order a person ceases to be a member of a pension scheme to which this Order applies and which is a contributory scheme, or otherwise ceases to be liable to pay contributions to that scheme, or where under those provisions an adjustment falls to be made in respect of the liability of a member of such a pension scheme to pay contributions to that scheme, such cessation or adjustment (as the case may be) shall be without prejudice to the obligation of that person to pay any outstanding contributions to that scheme in respect of any period before such cessation or adjustment and at the rate appropriate to that period, or to the right of his employer to deduct such contributions from his emoluments.

(2) Where under the foregoing provisions of this Order a person ceases to be a member of a pension scheme to which this Order applies, his rights to benefit from that scheme shall, except as otherwise provided in this Order, terminate with the cessation of his membership of that scheme.

#### *Determination of questions*

10. Where under the foregoing provisions of this Order any matter or thing is to be determined in relation to a member of a pension scheme to which this Order applies who becomes a member of the New Fund, that matter or thing shall be determined by agreement between the persons

administering that pension scheme on the one hand and the persons administering the New Fund on the other hand or, in default of such agreement, by the Secretary of State.

*Safeguarding of existing rights*

11. No person who is a member of, or has a right of re-admission to, a pension scheme to which this Order applies (other than the New Fund) shall be required by a term of his employment in the service to become a member of the New Fund.

Signed by authority of the Secretary of State 25th January 1971.

*John Peyton,*

Minister for Transport Industries  
Department of the Environment.

### SCHEDULE 1

#### SCHEMES FOR PROVIDING PENSIONS AND OTHER BENEFITS

British Railways (Wages Grades) Pension Fund.  
British Road Services (Male Wages Grades) Group Pension Fund.  
Great Eastern Railway New Pension Fund.  
Great Eastern Railway New Pension Supplemental Fund.  
Great Northern Railway Superannuation Fund.  
London Brighton and South Coast Railway Pension Fund.  
North Eastern Railway Servants' Pension Society (Tables A and B only).

### SCHEDULE 2

#### INSURANCE SCHEMES

Colonial Mutual Life Assurance Society Ltd. :—

Barrack & Fenton Ltd.  
Cowan & Co.  
Crouchers Ltd.  
D. West & Sons Ltd.  
Direct Transport (Wellingbro.) Ltd.  
Donaldson Wright.  
F. Crowther & Son (Wakefield) Ltd.  
Fisher Renwick Ltd.  
G. H. Atkins & Sons.  
Harding Bros. Transport Ltd.  
H. & G. Dutfield Ltd.  
Harold Wood & Sons Ltd.  
H. W. Hawker Ltd.  
J. & G. Barrack Ltd.  
J. Gupwell Transport Ltd.  
J. Keetch & Son.

- Macks Hauliers.  
Munro's Motor Transport Co.  
P.X. Ltd.  
R. Keetch & Son Ltd.  
Robin Hood Transport Ltd.  
S. Oatley & Sons Ltd.  
Swindon Transport Ltd.  
Tees-side Motor Transport Ltd.  
Topham Bros.  
Union Road Transport.  
Wm. Clarke (Nottingham) Ltd.  
W. Hesford Ltd.  
W. Hill.  
W. Wisely & Sons Ltd.  
Youngs Express Deliveries.
- Eagle Star Insurance Co. Ltd.:—  
Fairclough Staff Pension Scheme.  
T. M. Fairclough & Son Ltd. Group Life Assurance Scheme.
- Equity & Law Life Assurance Society Ltd.:—  
E. & E. J. Shaw Ltd. Pension & Life Assurance Scheme.
- Legal & General Assurance Society Ltd.:—  
Castle Bros. (Hauliers) Ltd. Staff Assurance Scheme.  
C. Scott's Road Services Ltd. Life Assurance Scheme.
- National Employer's Life Assurance Co. Ltd.:—  
F. Crowther & Son (Wakefield) Ltd.
- National Mutual Life Association of Australasia:—  
Castleford Transport Ltd. Pension Scheme.
- Northern Assurance Co. Ltd.:—  
James Express Carriers Ltd.
- Norwich Union Life Insurance Society Ltd.:—  
Corringdon Ltd.  
Tartan Arrow Service Ltd. Pension Fund.
- Phoenix Assurance Co. Ltd.:—  
Davies & Brownlow Ltd. Staff Pension Scheme.
- Provident Mutual Life Assurance Association:—  
Hay's Wharf Cartage Co. Ltd., Pickfords Ltd. & Carter Paterson & Co. Ltd.  
and Associated Cartage Companies Pension Scheme.
- Prudential Assurance Co. Ltd.:—  
J. Gerrard Transport Ltd. Scheme.
- Scottish Widows' Fund and Life Assurance Society:—  
C. H. Ward & Sons Ltd.
- Sun Life Assurance Society Ltd.:—  
R. J. Weeks & Co. Ltd. Staff Superannuation Scheme.  
The Tayforth Group Operatives Pension Fund.

Sun Life of Canada :—

D. M. Smith Road Transport Staff Scheme.

H. & R. Duncan Ltd.

T. Brown Transport Pension Scheme.

Northern Motor Utilities Pension Scheme.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order relates to the newly established National Freight Corporation (Wages Grades) Pension Fund, to the British Transport Commission (Male Wages Grades) Pension Scheme and to certain other pension schemes mentioned in the Order. It provides (Article 3) for the application of the inter-availability arrangements for pensions in the publicly owned transport industry to the newly established Wages Grades Pension Fund. It also regulates (Articles 4-7) the position of members of the British Transport Commission (Male Wages Grades) Pension Scheme or of the other pension schemes referred to above, who become members of the newly established Fund, so as to avoid duplication of membership. Provision is made (Articles 8-10) for the payment of transfer values, for certain consequential matters and for the determination of questions. Article 11 safeguards existing rights.