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STATUTORY INSTRUMENTS

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**1980 No. 1351**

**TRANSPORT**

**PENSIONS AND COMPENSATION**

**The British Transport (Pensions of Employees) Order 1980**

<i>Made</i>	- - - -	<i>8th September 1980</i>
<i>Laid before Parliament</i>		<i>15th September 1980</i>
<i>Coming into Operation</i>		<i>30th September 1980</i>

The Minister of Transport, in exercise of powers conferred by section 74 of the Transport Act 1962, and now vested in him<sup>(1)</sup>, and of all other enabling powers, hereby makes the following Order:—

*Commencement and Citation*

1. This Order shall come into operation on 30th September 1980, and may be cited as the British Transport (Pensions of Employees) Order 1980.

*Interpretation*

2. In this Order—

“BRB scheme” means any Section of the British Railways Superannuation Fund, the British Railways (Wages Grades) Pension Fund, the British Transport Police Force Superannuation Fund, and any pension scheme established by the British Railways Board or by a subsidiary of the British Railways Board after the coming into operation of this Order, being a scheme to which the British Railways Board have directed that this Order should apply;

“Corporation scheme” means the National Freight Corporation (Salaried Staff) Pension Fund and the National Freight Corporation (Wages Grades) Pension Fund;

“guaranteed minimum pensions”, in relation to a pension scheme, has the same meaning as in Part III of the Social Security Pensions Act 1975;

“member”, in relation to a pension scheme, means a person who has pension rights thereunder by virtue of his pensionable service and whose pensionable service has not ceased and “membership” shall be construed accordingly;

“pensionable service”, in relation to a member of a pension scheme, means service in respect of which pension rights accrue or have accrued under that scheme;

“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 deed or other instrument made for the purpose of the scheme; and

“transferable rights”, in relation to a member of a Corporation scheme who becomes a member of any other pension scheme, means his accrued rights under the Corporation scheme to benefits other than guaranteed minimum pensions and, to the extent that his accrued rights to guaranteed minimum pensions are permitted by section 38 of the Social Security Pensions Act 1975 or any statutory amendment or re-enactment thereof to be transferred to that other scheme, his accrued rights to guaranteed minimum pensions, and “non-transferable rights” means his accrued rights under the Corporation scheme other than transferable rights.

#### *Application of Order*

3. Each Corporation scheme shall be construed and have effect as if the relevant provisions of this Order were terms of the scheme, any other terms thereof, whether expressed or implied, to the contrary notwithstanding.

#### *Amendment of No. 1 Order of 1969*

4. In Article 3 of the British Transport (Pensions of Employees) (No. 1) Order 1969 (which makes provision for the obligations of national transport authorities in relation to employees who are members of pension schemes for which other national transport authorities are responsible), in paragraph (4), there shall be inserted after sub-paragraph (c) the following sub-paragraphs—

“(cc) the Transport Act 1978,

(ccc) the Transport Act 1980,”

and after the coming into operation of this Order the said Article shall have effect accordingly.

#### *Alterations in the terms of Corporation schemes*

5.—(1) A person who becomes a member of a BRB scheme after the coming into force of this Order shall, so long as he is a contributing member of such a scheme, be ineligible for membership of a Corporation scheme.

(2) Where a member of a Corporation scheme (“the former scheme”) becomes a member of a BRB scheme (“the new scheme”) after the coming into force of this Order, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the new scheme he shall cease to be a member of the former scheme, his right to receive benefit from the former scheme (other than in respect of non-transferable rights) shall cease, and (except as provided in Article 7 below) his liability to pay contributions to the former scheme shall cease; and

(b) as soon as may be after that date the persons administering the former scheme shall pay to the new scheme an appropriate transfer value in respect of the transferable rights of that member in the former scheme.

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

6.—(1) Where under Article 5 above there falls to be paid in relation to a member of a Corporation scheme a transfer value in respect of his transferable rights in that scheme, then 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—

- (a) 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
- (b) an amount equal to any income tax which may then become payable by virtue of Part II of the Finance Act 1970, and also
- (c) in a case where a state scheme premium then becomes payable by virtue of Part III of the Social Security Pensions Act 1975, an amount equal to that premium or, in any other case, an amount equal to the portion of the funds of the Corporation scheme properly attributable to the non-transferable rights of that member.

(2) Any payment of a transfer value under any provision of this Order may take the form of a transfer of securities 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*

7. Where under Article 5 above a person ceases to be a member of a Corporation scheme, or otherwise ceases to be liable to pay contributions to that scheme, such cessation 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 and at a rate appropriate to that period, or to the right of his employer to deduct such contributions from his emoluments.

#### *Determination of questions*

8. Where under the foregoing provisions of this Order any matter or thing is to be determined in relation to a member of a Corporation scheme who becomes a member of a BRB scheme, that matter or thing shall be determined by agreement between the persons administering the Corporation scheme on the one hand and the persons administering the BRB scheme on the other hand or, in default of such agreement, by the Minister of Transport.

8th September 1980

*Norman Fowler*  
Minister of Transport

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## EXPLANATORY NOTE

This Order provides for certain changes in connection with pension schemes in the nationalised transport sector which are desirable in consequence of Part II of the Transport Act 1980, which provides for the transfer of the undertaking of the National Freight Corporation to a successor company.

Article 4 amends certain provisions of the British Transport (Pensions of Employees) (No. 1) Order 1969 so that those provisions will be applicable in circumstances where employees are members of pension schemes which are not the responsibility of their employing body by virtue of transport legislation enacted subsequently to the 1969 Order. The provisions concerned require the employing body to deduct employees' pension contributions from their salaries and to pay those contributions together with employers' pension contributions and appropriate contributions towards administrative expenses and any deficiency payments, to the bodies responsible for the pensions schemes in question.

Article 5 regulates the position of members of the Corporation's pension schemes who become members of pension schemes for which the British Railways Board are responsible so as to avoid duplication of membership. Articles 6-8 provide for the payment of transfer values in such circumstances, for certain consequential matters, and for the determination of questions.