1953 No. 1445

The British Transport Commission (Pensions of Employees) Regulations, 1953

Made - - - -	29*th September*, 1953
Laid before Parliament	30*th September*, 1953
Coming into Operation	13*th October*, 1953

The Minister of Transport, in exercise of the powers conferred upon him by section 27 of the Transport Act, 1953(a), and of all other powers him enabling in that behalf, hereby makes the following Regulations:—

Commencement, Citation and Interpretation

1.—(1) These Regulations shall come into operation on the 13th day of October, 1953, and shall have effect from the 6th May, 1953.

(2) These Regulations may be cited as the British Transport Commission (Pensions of Employees) Regulations, 1953.

(3) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"the Act" means the Transport Act, 1953:

"the Act of 1947" means the Transport Act, 1947(b):

"accrued pension rights" has the meaning assigned to it by paragraph (5) of this Regulation:

"an actuary" means a Fellow of the Institute of Actuaries or the Faculty of Actuaries in Scotland:

"the Commission" means the British Transport Commission:

"an Executive" means an Executive established by or under section 5 of the Act of 1947:

"funded scheme" means a scheme, not being an insurance scheme, which relates in whole or in part to providing pensions to or in respect of officers or servants, such pensions being payable out of a fund held by any person for the purposes of the scheme:

"general scheme" means a scheme, not being a funded scheme or an insurance scheme, which relates in whole or in part to providing pensions to or in respect of officers or servants:

"insurance scheme" means a scheme for providing pensions to or in respect of officers or servants, such pensions being provided for by means of contracts or policies made or effected with a life assurance company (including contracts or policies made or effected with such a company for the purpose of implementing any form of private superannuation fund):

"life assurance company" means an insurance company carrying on life assurance business within the meaning of the Assurance Companies Acts, 1909 to 1946(c):

"the Minister" means the Minister of Transport:

(a) 1 & 2 Eliz. 2. c. 13. (b) 10 & 11 Geo. 6. c. 49.
(c) See 9 Edw. 7. c. 49 and 9 & 10 Geo. 6. c. 28.

" officer or servant " means a person employed as a member of the Commission or of an Executive or as an officer or servant by the Commission (whether or not the employment is by virtue of the Act of 1947 to be treated as employment by an Executive) :

" pensionable officer or servant " means an officer or servant who has pension rights :

" pensionable service " in relation to a pensionable officer or servant includes any period ranking for benefit under his pension scheme:

" the relevant age " means 65 years for males and 60 years for females :

" relevant event " means—

(*a*) the exercise by the Commission of the duties imposed on them by the Act as to the disposal of the property held by the Commission for the purposes of the existing road haulage undertaking ; or

(*b*) the modifications of the functions of the Commission effected by the Act ; or

(*c*) the coming into operation of any provisions of a scheme under the Act relating to the re-organisation of that part of the Commission's undertaking which consists in the operation of the railways or of any Order of the Minister amending such a scheme,

as the case may be:

" relevant period " in relation to a cause of loss, diminution or change arising, means within ten years of—

(*a*) where the relevant event is that specified in paragraph (*a*) of the definition of that expression, the 14th August, 1953 ;

(*b*) where the relevant event is that specified in paragraph (*b*) of the said definition, the 6th May, 1953 ;

(*c*) where the relevant event is that specified in paragraph (*c*) of the said definition, the coming into operation of any provisions of the scheme or the Order of the Minister amending such a scheme:

" tribunal " means a referee or board of referees appointed by the Minister of Labour and National Service after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State.

(4) In relation to an officer or servant who immediately before the date of losing his employment as an officer or servant in consequence of the relevant event had the right of continuing in that employment beyond the relevant age, these Regulations shall have effect as though references therein to " the relevant age " were references to the minimum age at which the officer or servant could have been required to retire if he had not lost employment as an officer or servant in consequence of the relevant event, or, if there is no such age, his actual age at the time when he could have been required to retire if he had not lost his employment as aforesaid.

(5) In these Regulations, the expression " accrued pension rights " in relation to an officer or servant means any right to the payment on or after his reaching the relevant age or on or after the happening of any other contingency (which expression includes the exercise of any right to receive a pension on retirement before reaching the relevant age) carrying entitlement to pension under his scheme—

(*a*) if his scheme is an insurance scheme, of the pension which would have been payable to or in respect of him by virtue of any premiums paid by or in respect of him under the scheme up to the date on which he loses his employment as an officer or servant ; or

(*b*) if his scheme is a funded scheme or a general scheme and the scheme is a scheme under which the pension rights are related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated at such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable service as would have been applicable under that scheme in the calculation of the pension, if he had at the date when he loses his employment as an officer or servant reached the relevant age or, as the case may be, had the other contingency then happened, and there had been no requirement of the scheme or provision as to a minimum qualifying period of service ; or

(*c*) if his scheme is a funded scheme or a general scheme and the scheme is a scheme under which the pension rights are not related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated on reaching the relevant age or, as the case may be, on the happening of the other contingency, as follows:—

(i) on reaching the relevant age, the pension which would have been payable under the scheme had he continued to be a participant in the scheme until that age without increase of emoluments, but reduced in the proportion which the number of years of pensionable service under the scheme before he loses his employment as an officer or servant bears to the number of years of pensionable service which he would have rendered had he continued to be a participant in the scheme until the relevant age ; or

(ii) on the happening of the other contingency, the pension which would have been payable under the scheme if the contingency had happened at the time when he loses his employment as an officer or servant with the corresponding emoluments and length of service and there had been no requirement of the scheme as to a minimum qualifying period of service:

Provided that for the purpose of ascertaining the amount of any pension under sub-paragraphs (*b*) and (*c*) of this paragraph no account shall be taken of any right to payments of pension on account of temporary periods of incapacity which exceed in total amount or total period of payment the maximum amount or period laid down in the relevant scheme or provision.

(6) The Interpretation Act, 1889(a), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2. Where any person, being a pensionable officer or servant, is entitled under his pension scheme, on ceasing to be a pensionable officer or servant, to receive any payment by way of a return of contributions paid by or in respect of him, with or without interest thereon, he may, at any time within three months of the date upon which he loses his employment as a pensionable officer or servant, exercise his right to receive such a payment; and where such a right is exercised by any person the subsequent provisions of these Regulations shall not apply to him, and the persons managing the scheme, the persons in whom any fund held for the purposes of the scheme is vested and the Commission shall be discharged from all other liability under the scheme to or in respect of that person or to any other person by reason of that right having been exercised.

(a) 52 & 53 Vict. c. 63.

Funded Schemes

3.—(1) Subject to the provisions of these Regulations, this Regulation and the two next succeeding Regulations shall apply in relation to every funded scheme.

(2) In respect of any participant in a funded scheme who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen within the revelant period, the Commission may, not later than three months after the date upon which he so loses his employment, make such arrangements with the persons administering the scheme as shall ensure to him his accrued pension rights. Any arrangements made under this paragraph may be determined by the Commission at any time upon giving to the persons admininistering the scheme three months' previous notice in writing.

(3) Notwithstanding anything to the contrary in any such scheme as aforesaid or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the persons administering the scheme shall be authorised to make such arrangements (including the disposal of funds held for the purposes of the scheme) as are referred to in paragraph (2) of this Regulation and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

4.—(1) If in the case of any participant in a funded scheme, in respect of whom the Commission are authorised to make such arrangements as are referred to in the last preceding Regulation, no such arrangements are made, or, if made, have been duly determined, the persons in whom any funds held for the purposes of the scheme are vested shall transfer to the Commission a sum which equals in amount either—

(*a*) the transfer value at the date when he loses his employment or the date on which the arrangements are determined, as the case may be, of his pension rights as defined for the purposes of the scheme ; or

(*b*) in the absence of such a definition, the estimated capital value at that date of his accrued pension rights ;

with compound interest from the date when he loses his employment or the date on which the arrangements are determined, as the case may be, until such sum is transferred to the Commission ; and upon such sum being transferred, the Commission shall indemnify the persons in whom the said sum is vested against any liability for the payment of income tax in respect of the sum so transferred to the Commission, and without prejudice to their liability under any arrangements made in accordance with Regulation 3 of these Regulations or under the preceding provisions of this Regulation, as from the date on which the participant loses his employment, the persons administering the scheme, and the persons in whom the said fund is vested, shall be discharged from all liability under the scheme to or in respect of the participant concerned or to any other person by reason of the transfer.

(2) The reference in paragraph (1) of this Regulation to compound interest shall be construed as a reference to compound interest at the same rate and with the same rests as were applied for the purposes—

(*a*) where the sum to be transferred is that referred to in sub-paragraph (*a*) of the said paragraph, of the last periodical actuarial valuation of the fund held for the purposes of the scheme ;

(*b*) in any other case, of calculating the estimated capital value of the accrued pension rights referred to in that paragraph.

(3) The sum to be transferred to the Commission under the provisions of paragraph (1) of this Regulation shall be transferred within six months after the date when the participant loses his employment or, where any such arrangements as are referred to in paragraph (2) of the last preceding Regulation have been made, the date on which the arrangements are duly determined, as the case may be.

(4) The sum referred to in sub-paragraph (*b*) of paragraph (1) of this Regulation shall be determined by an actuary appointed by the Commission and the fees of any actuary so appointed shall be defrayed by the Commission.

5.—(1) Subject to the provisions of this Regulation, the Commission shall pay to or in respect of every officer or servant in whose case the persons in whom any funds held for the purposes of the scheme are vested are under the last preceding Regulation liable to transfer to the Commission any sum—

(*a*) as from his reaching the relevant age, or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights; or

(*b*) at the option of the Commission in any case where the sum does not exceed £250, a lump sum equal in amount to the estimated capital value of his accrued pension rights at the date when the option is exercised, as determined by an actuary appointed by the Commission, reduced by an amount equal to any sum which the persons in whom the fund held for the purposes of that scheme is vested may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value or estimated capital value:

Provided that—

(i) the provisions of sub-paragraph (*b*) of this paragraph shall not apply in any case where the option is not exercised within six months after the date upon which the officer or servant loses his employment as an officer or servant, or, being a person to whom Regulation 10 of these Regulations applies, after the date on which his service with any such company as is referred to in that Regulation is deemed to have ceased for any of the reasons therein specified;

(ii) for the purposes of this paragraph, the expression "accrued pension rights" excludes any pension payable during the period that any such arrangements as are referred to in paragraph (2) of Regulation 3 of these Regulations are in force.

(2) The Commission may discharge their liability under sub-paragraph (*a*) of the last preceding paragraph by making such arrangements with a life assurance company as will ensure to or in respect of the officer or servant concerned as from his reaching the relevant age or as from the happening of any other contingency carrying entitlement to pension under his pension scheme, the payment or payments comprised in his accrued pension rights.

(3) Except as aforesaid, the Commission shall be under no liability to or in respect of the officer or servant concerned by reason of any rights under or arising out of his participation in the scheme.

Insurance Schemes

6.—(1) Subject to the provisions of these Regulations, in respect of any participant in an insurance scheme who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen within the relevant period, the Commission may, not later than three months after the date upon which he so loses his employment, make such arrangements with the persons administering the scheme and the life assurance

company concerned as shall ensure to or in respect of the participant on his reaching the relevant age, or on the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights.

(2) Any arrangements made under paragraph (1) of this Regulation shall, in any case where the payments to be ensured thereunder to or in respect of an officer or servant on his reaching the relevant age do not exceed £13 per annum, provide that the life assurance company may, at any time within three months of the making of the arrangements, discharge their liability thereunder by paying to or in respect of the officer or servant concerned a lump sum equal in amount to the estimated capital value of his accrued pension rights as at the date on which the option is exercised, determined in such manner as may be provided by the arrangements so made, and adjusted, in such manner as may be provided by the arrangements, in respect of any sums which the persons administering the scheme may become liable to pay by way of income tax in consequence of the payment of the said lump sum.

(3) Notwithstanding anything to the contrary in such scheme as aforesaid or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the persons administering the scheme and the life assurance company concerned shall be authorised to make such arrangements (including the disposal of any funds held for the purposes of the scheme) as are referred to in paragraph (1) of this Regulation and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

7.—(1) Subject to the provisions of this paragraph, this Regulation applies to any insurance scheme all the participants in which (other than participants in receipt of a pension thereunder) lose their employment as officers or servants at one and the same time in consequence of the same relevant event, the cause of such loss having arisen within the relevant period, and not later than seven days after so losing their employment, obtain employment with a new single employer, being an employer willing to continue the scheme and to assume the rights and obligations of the Commission in relation thereto:

Provided that this Regulation shall not apply in any case where the new employer is such a company as is referred to in section 4 or 5 of the Act.

(2) Subject to the consent of the life assurance company concerned, every insurance scheme to which this Regulation applies and all trust deeds, rules and other instruments made for the purposes thereof, shall continue subject to the modifications thereof provided for in this Regulation.

(3) Every insurance scheme to which this Regulation applies and every statutory provision relating thereto and all trust deeds, rules and other instruments made for the purposes thereof shall have effect as from the date on which the participants lose their employment as officers or servants, as though any reference therein (however worded and whether express or implied) to employment by the Commission were, as respects employment as from that date, a reference to employment by the new employer, and the rights and obligations relating to participation in the scheme and in any fund held for the purposes thereof and to the payment of premiums or contributions by employer and employee shall be construed accordingly.

(4) Subject to the provisions of the last preceding paragraph, every insurance scheme to which this Regulation applies and every statutory provision relating thereto and all trust deeds, rules and other instruments made

for the purposes thereof shall have effect as from the date on which the participants lose their employment as officers or servants as though, where the Commission is a party thereto, the new employer had been a party thereto, and any reference therein (however worded and whether express or implied) to the Commission were, as respects anything falling to be done on or after that date, a reference to the new employer, and any reference therein (however worded and whether express or implied) to any officer, servant, agent of, or any person appointed by the Commission and concerned with the administration of the scheme or the fund held for the purposes thereof were, as respects anything falling to be done on or after the said date, a reference to such person as the new employer may appoint for the administration or participation in the administration of the scheme or fund held for the purposes thereof; and where the fund held for the purposes of the scheme is so held by the Commission with or without any other person, all necessary steps shall forthwith be taken after the said date to secure that the fund shall thereafter be so held by the new employer in place of the Commission and, where the fund is held by any person (being an officer, servant, agent of, or a person appointed by the Commission) with or without the Commission or any other person, similar steps shall forthwith be taken after the said date to secure that the fund shall thereafter be so held by such person as the new employer may appoint for the purpose in place of the first mentioned person.

General Schemes

8.—(1) Subject to the provisions of these Regulations, the Commission shall pay to or in respect of every officer or servant, being a participant in a general scheme who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen within the relevant period,—

(*a*) as from his reaching the relevant age, or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights; or

(*b*) at the option of the Commission in any case where the sum does not exceed £250, a lump sum equal in amount to the estimated capital value of his accrued pension rights at the date when the option is exercised, as determined by an actuary appointed by the Commission, reduced by an amount equal to any sum payable by way of income tax in consequence of the payment of the said lump sum:

Provided that the provisions of sub-paragraph (*b*) of this paragraph shall not apply in any case where the option is not exercised within six months after the date upon which the officer or servant loses his employment as an officer or servant or, being a person to whom Regulation 10 of these Regulations applies, after the date on which his service with any such company as is referred to in that Regulation is deemed to have ceased for any of the reasons therein specified.

(2) The Commission may discharge their liability under sub-paragraph (*a*) of the last preceding paragraph by making such arrangements with a life assurance company as will ensure to or in respect of the officer or servant concerned as from his reaching the relevant age or as from the happening of any other contingency carrying entitlement to pension under the scheme, the payment or payments comprised in his accrued pension rights.

(3) Except as aforesaid, the Commission shall be under no liability to or in respect of the officer or servant concerned by reason of any rights under or arising out of his participation in the scheme.

(4) In this Regulation the expression " participant " includes a person who does not contribute or has not contributed under the scheme and has pension rights thereunder.

Transfer of Pension Rights

9.—(1) This Regulation applies in relation to and only in relation to any officer or servant who is a participant in a funded scheme or, having immediately before becoming an officer or servant been a participant in a funded scheme, is by virtue of any regulations made by the Minister under section 98 of the Act of 1947 a participant in a general scheme.

(2) In respect of any officer or servant to whom this Regulation applies, who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen within the relevant period, and obtains other employment in connection with which he has pension rights in another pension scheme (being a scheme approved in whole or in part by the Commissioners of Inland Revenue under section 379 of the Income Tax Act, 1952(a)), the Commission may, subject to the provisions of this Regulation and not later than three months after the date upon which he so loses his employment, make arrangements with the persons administering that other scheme and, in the case of a participant in a funded scheme, with the persons administering that scheme, for the transfer to the persons administering that other scheme of a sum which equals in amount either—

(*a*) the transfer value at the date on which the arrangements are made of his pension rights as defined for the purposes of his existing scheme; or

(*b*) in the absence of such a definition, the estimated capital value at that date of his accrued pension rights;

with compound interest from the date on which the arrangements are made until such transfer is made:

Provided that no such arrangements shall be concluded unless and until the Commission shall have communicated the terms thereof to the officer or servant concerned, shall have furnished him with a copy of a certificate given by the actuary of that other pension scheme certifying that the pension rights to be conferred on him under the arrangements, if made, will be actuarially equivalent to his accrued pension rights under his former scheme and shall have obtained his consent to the making of the arrangements.

(3) The reference in paragraph (2) of this Regulation to compound interest shall be construed as a reference to compound interest at the same rate and with the same rests as were applied for the purposes—

(*a*) where the sum to be transferred is that referred to in sub-paragraph (*a*) of the said paragraph, of the last periodical actuarial valuation of the fund held for the purposes of the scheme;

(*b*) in any other case, of calculating the estimated capital value of the accrued pension rights referred to in that paragraph.

(4) The sum to be transferred under any such arrangements as are referred to in paragraph (2) of this Regulation shall be determined by an actuary appointed by the Commission and the fees of any actuary so appointed shall be defrayed by the Commission.

(5) The persons administering any pension scheme to whom any sum is transferred under any such arrangements as are referred to in paragraph (2)

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.

of this Regulation shall indemnify the Commission or, where the sum is transferred in respect of a participant in a funded scheme, the persons in whom any fund held for the purposes of the funded scheme is vested, against any liability for the payment of income tax in respect of the sum so transferred.

(6) Notwithstanding anything to the contrary in any such scheme as is referred to in the foregoing provisions of this Regulation or any statutory provisions relating thereto or trust deeds, rules or other instruments made for the purposes thereof, the Commission and the persons administering the scheme shall be authorised to make such arrangements (including the disposal of funds held for the purposes of any funded scheme) as are referred to in paragraph (2) of this Regulation and the said scheme, statutory provisions, trust deeds, rules and other instruments shall be construed accordingly and as though provision was duly made in the scheme for any arrangements so made.

Continuation of Pension Rights

10.—(1) This Regulation applies to—

(*a*) any person being an officer or servant and a participant in a funded scheme or a general scheme, who immediately upon losing his employment as an officer or servant becomes employed as an officer or servant by any such company as is referred to in section 4 or 5 of the Act; and

(*b*) any funded scheme or general scheme in which any person to whom this Regulation applies was a participant immediately before the date of change.

(2) The subsequent provisions of this Regulation shall be terms of any pension scheme to which this Regulation applies and notwithstanding anything to the contrary therein contained, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof shall be construed accordingly.

(3) Every person to whom this Regulation applies, being a participant in a pension scheme to which this Regulation applies, may—

(*a*) in the case of a funded scheme, with the consent of the persons in whom the fund held for the purposes of the scheme is vested and the approval of the Commission; or

(*b*) in the case of a general scheme, with the consent of the Commission,

continue, subject as hereinafter provided, to be a member thereof so long as he remains in the service of the company and to be treated in all respects as if his service with the company were service with the Commission:

Provided that for the purposes of this Regulation a person's service with the company shall be deemed to have ceased on the date on which—

(i) in the case of any such company as is referred to in section 4 of the Act, the company ceases to be under the direct or indirect control of the Commission;

(ii) in the case of any such company as is referred to in section 5 of the Act, the shares of the company are sold in accordance with the provisions of that section.

(4) No such consent or approval as is mentioned in the last preceding paragraph shall be given except upon the giving of an undertaking by the Company concerned to make such contributions and payments to the fund in the case of a funded scheme or, in the case of a general scheme, to the Commission, in respect of any period commencing with the date of change

and ending on the date on which the person in relation to whom the undertaking is given ceases to be in the service of the company, as would, but for the provisions of this Regulation, have fallen to be made by the Commission if that person had been in the service of the Commission and not in the service of the company.

(5) The Commission shall not be liable to make any contribution or payment for the purposes of any pension scheme to which this Regulation applies in respect of any person to whom this Regulation applies, being a person who continues to be a participant in that scheme and to be treated as having been such on and after the date of change, for any period commencing with the date of change and ending with the date on which his service with the company ceases.

(6) Any person to whom this Regulation applies, being a participant in a scheme to which this Regulation applies, whose emoluments are diminished after the date of change, the cause of such diminution having arisen within the relevant period, may (without prejudice to any other power he may have in that behalf) with the consent of the company concerned and of the persons in whom the fund held for the purposes of the scheme is vested or, as the case may be, the Commission, continue his contributions under the scheme and continue to have contributions paid in respect of him thereunder and to be entitled to the benefits thereof by reference to the amount of his emoluments before they were first so diminished

(7) The provisions of Regulations 3 to 5 or, as the case may be, of Regulation 8 of these Regulations, shall apply in relation to any person to whom this Regulation applies whose service with any such company as is referred to in paragraph (1) of this Regulation ceases for any reason other than reaching the relevant age or the happening of any other contingency carrying entitlement to pension under the scheme, misconduct or incapacity to perform such duties as he was performing or could reasonably have been required to perform before the date of change, or whose service is deemed to have ceased for any of the reasons specified in paragraph (3) of this Regulation, as if that person had lost his employment as an officer or servant on the date on which his service with the company ceased instead of on the date of change:

Provided that the provisions of this paragraph shall not apply in any case where the person's service with the company ceases after the expiration of the relevant period as defined for the purpose of the said Regulations.

(8) In this Regulation the expression "date of change" in relation to any person to whom this Regulation applies, means the date on which the person ceases to be employed as an officer or servant and becomes employed as an officer or servant by any such company as is referred to in section 4 or 5 of the Act.

11.—(1) This Regulation applies to—

(*a*) any person, being an officer or servant and a participant in an insurance scheme, who immediately upon losing his employment as an officer or servant becomes employed as an officer or servant by any such company as is referred to in section 4 or 5 of the Act; and

(*b*) any insurance scheme in which any person to whom this Regulation applies was a participant immediately before the date of change.

(2) The subsequent provisions of this Regulation shall be terms of any insurance scheme to which this Regulation applies and notwithstanding anything to the contrary therein contained, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof shall be construed accordingly.

(3) Every person to whom this Regulation applies, being a participant in an insurance scheme to which this Regulation applies, may, with the consent of the persons administering the scheme and the approval of the Commission and the life assurance company concerned, continue, subject as hereinafter provided, to be a member thereof so long as he remains in the service of the company and to be treated in all respects as if his service with the company were service with the Commission:

Provided that for the purposes of this Regulation a person's service with the company shall be deemed to have ceased on the date on which—

(i) in the case of any such company as is referred to in section 4 of the Act, the company ceases to be under the direct or indirect control of the Commission;

(ii) in the case of any such company as is referred to in section 5 of the Act, the shares of the company are sold in accordance with the provisions of that section.

(4) No such consent or approval as is mentioned in the last preceding paragraph shall be given except upon the giving of an undertaking by the Commission to make such payments of premiums and other payments due to be made under the scheme to the life assurance company or, as the case may be, to the persons administering the scheme, in respect of any period commencing with the date of change and ending on the date on which the person in relation to whom the undertaking is given ceases to be in the service of the company, as would have fallen to be made by the Commission if that person had been in the service of the Commission and not in the service of the company, and of an undertaking by the company to refund to the Commission all payments so made by them to the life assurance company together with a due proportion of the additional administrative expenses incurred by the Commission in consequence of the provisions of this paragraph.

(5) Any person to whom this Regulation applies, being a participant in an insurance scheme to which this Regulation applies, whose emoluments are diminished after the date of change, the cause of such diminution having arisen within the relevant period, may (without prejudice to any other power he may have in that behalf) with the consent of the Commission and the persons administering the scheme continue his premiums or contributions under the scheme and continue to have premiums or contributions paid in respect of him thereunder and to be entitled to the benefits thereof by reference to the amount of his emoluments before they were first so diminished.

(6) The provisions of Regulation 6 of these Regulations shall apply in relation to any person to whom this Regulation applies whose service with any such company as is referred to in paragraph (1) of this Regulation ceases for any reason other than reaching the relevant age or the happening of any other contingency carrying entitlement to pension under the scheme, misconduct or incapacity to perform such duties as he was performing or could reasonably have been required to perform before the date of change, or whose service is deemed to have ceased for any of the reasons specified in paragraph (3) of this Regulation, as if that person had lost his employment as an officer or servant on the date on which his service with the company ceased instead of on the date of change:

Provided that the provisions of this paragraph shall not apply in any case where the person's service with the company ceases after the expiration of the relevant period as defined for the purpose of the said Regulation 6.

(7) In this Regulation the expression " date of change " in relation to any person to whom this Regulation applies, means the date on which the person ceases to be employed as an officer or servant and becomes employed as an officer or servant by any such company as is referred to in section 4 or 5 of the Act.

12.—(1) This Regulation applies to every participant in a pension scheme who suffers a diminution of his emoluments as an officer or servant or a change in the nature or in the terms of his employment as an officer or servant in consequence of any relevant event, the cause of such diminution or change having arisen within the relevant period.

(2) Any participant in a pension scheme to whom this Regulation applies whose emoluments are diminished may (without prejudice to any other power he may have in that behalf) with the consent of the Commission and the persons administering the scheme continue his premiums or contributions under the scheme and continue to have premiums or contributions paid in respect of him thereunder and to be entitled to the benefits thereof by reference to the amount of his emoluments before they were first so diminished ; and notwithstanding anything to the contrary contained therein, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof, shall be construed accordingly and as though the provisions of this paragraph were a term of the scheme.

(3) Any participant in a pension scheme to whom this Regulation applies who suffers such a change in the nature or terms of his employment as would terminate his participation in the scheme shall have the right, if he gives notice in writing to that effect to the persons administering the scheme within three months of the date of such change, to continue to be a participant in the scheme so long as he remains an officer or servant and to be treated as having been such from the date of such change and as subject to the like conditions as to payment of premiums or contributions and otherwise in all respects as if that change had not taken place ; and notwithstanding anything to the contrary contained therein, every such scheme and any statutory provisions relating thereto and all trust deeds, rules and other instruments made for the purposes thereof, shall be construed accordingly and as though the provisions of this paragraph were a term of the scheme.

(4) The provisions of Regulations 3 to 5, of Regulation 6 or, as the case may be, of Regulation 8 of these Regulations, shall apply to every participant in a pension scheme to whom this Regulation applies, who does not exercise the right conferred upon him by paragraph (3) of this Regulation, as if he had on the date on which the change took place lost his employment as an officer or servant.

Determination of Disputes

13. Any question arising between the Commission and any person as to whether that person is a participant in a pension scheme, and any question arising between the Commission and a participant in a pension scheme as to the application or effect of any of the provisions of paragraph (2) of Regulation 3, sub-paragraph (*a*) of paragraph (1) or paragraph (2) of Regulation 5, paragraph (1) of Regulation 6 or sub-paragraph (*a*) of paragraph (1) or paragraph (2) of Regulation 8 of these Regulations shall in

default of agreement between the parties concerned be referred to a tribunal whose decision thereon shall be final.

Given under the Official Seal of the Minister of Transport this 29th day of September, 1953.

(L.S.) *Alan Lennox-Boyd,*
The Minister of Transport.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the preservation of the pension rights of employees of the British Transport Commission who cease to be in the employment of the Commission, or suffer a change in the nature or terms of their employment, in consequence of the denationalisation of road haulage, or the modifications of the functions of the Commission, or the reorganisation of the railways, provided for by the Transport Act, 1953.

Except in cases in which pension rights are transferred or continued in connection with new employment, the pension accrued up to the date on which the employee ceases to be employed by the Commission is normally to be paid to him at age 65 (age 60 for a woman) or at any earlier time at which he would under the rules of his scheme have been entitled to receive pension (Regs. 3 (2), 5 (1) (*a*), 6 (1) and 8 (1) (*a*)). The employee may elect instead to receive an immediate lump sum payment if the rules of his scheme provide for this, but if he does so he will have no other rights under these Regulations (Reg. 2). Where the amount of the accrued pension rights is small, the Commission (or, in the case of an insurance scheme, the life assurance company) may, at their option, commute their liability by an immediate lump sum payment (Regs. 5 (1) (*b*), 6 (2) and 8 (1) (*b*)).

The Commission may discharge their liability to preserve an employee's accrued pension rights by arranging for a life assurance company to make the payments at the appropriate time (Regs. 5 (2) and 8 (2)).

If all the members of an insurance pension scheme leave the Commission's employment at the same time and all enter the service of a single new employer who is willing to continue the scheme, the scheme is to continue and the new employer is to take the place of the Commission in relation to the scheme (Reg. 7).

In certain cases, where the employee enters a pension scheme in his new employment the Commission, or the administrators of the employee's former scheme, may pay to the other scheme the sum which represents the value of the employee's rights in his former scheme, but the Commission must first give the employee details of the proposed arrangements and must get his consent (Reg. 9).

Regulations 10 and 11 make it possible for an employee transferred to the employment of a company established under the provisions of section 4 or 5 of the Transport Act, 1953, to remain in membership of his scheme as long as the company, if a section 4 company, remains under the control

of the Commission, or, if a section 5 company, until the shares are sold. An employee whose pay is reduced after transfer to the company may be allowed to continue to contribute to and benefit from his pension scheme by reference to his former rate of pay. Provision is made for the preservation of pension rights accruing during employment with the company.

An employee who remains in the employment of the Commission but suffers a reduction of pay may be allowed to contribute to and benefit from his pension scheme by reference to his former rate of pay. An employee who is transferred from a pensionable to a non-pensionable grade in the Commission's service can elect within three months to remain in his pension scheme; if he does not elect to remain, his accrued pension rights will be preserved as if he had lost his employment (Reg. 12).

Provision is made for the settlement of disputes (Reg. 13).

1953 No. 846

The Transferred Undertakings (Compensation to Employees) (Amendment) Regulations, 1953

Made - - - -	15*th May*, 1953
Coming into Operation	29*th May*, 1953

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament:

Now, therefore, the Minister of Transport in exercise of the powers conferred upon him by section 101 of the Transport Act, 1947(**a**), and of all other powers him enabling in that behalf hereby makes the following Regulations:—

1.—(1) These Regulations shall come into operation on the 14th day after the date on which these Regulations are made and may be cited as the Transferred Undertakings (Compensation to Employees) (Amendment) Regulations, 1953.

(2) The Interpretation Act, 1889(**b**), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2. Paragraph (3) of Regulation 1 of the Transferred Undertakings (Compensation to Employees) Regulations, 1950(**c**), (hereinafter referred to as "the Principal Regulations") shall have effect as though in the definition of the expression "whole time service" the following words were inserted after the word "remuneration" at the end thereof:—

> "and includes any period after attaining the said age and before the date of the relevant event during which he was the owner or part owner of an undertaking the activities of which consisted wholly or partly of the operation of any vehicles authorised to be used under an "A" or a "B" licence."

3.—(1) Where before the coming into operation of these Regulations a person has suffered a loss which would have entitled him to compensation under the Principal Regulations if, and only if, these Regulations had been

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(**a**) 10 & 11 Geo. 6. c. 49. (**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1950/1083; 1950 II. p. 66.