STATUTORY INSTRUMENTS

1966 No. 1465

TRANSPORT

PENSIONS AND COMPENSATION

The British Transport (Pensions of Employees Transferred to Harbour Authorities) Order 1966

Made - - -	*18th November* 1966
Laid before Parliament	*29th November* 1966
Coming into Operation	*5th December* 1966

The Minister of Transport, in exercise of her powers under section 74 of the Transport Act 1962(a) 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 5th December 1966, and may be cited as the British Transport (Pensions of Employees Transferred to Harbour Authorities) Order 1966.

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

(3) In this Order unless the context otherwise requires:—

"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;

"harbour authority", "harbour reorganisation scheme" and "harbour revision order" have the meanings respectively given to those expressions in the Harbours Act 1964(c);

"harbour pension scheme", "transport pension scheme" and "transferring member" have the meanings respectively given to those expressions in Articles 2 and 3 of this Order;

"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 meanings of the Insurance Companies Act 1958(d) (including contracts or policies made or effected with such a company for the purposes of implementing any form of private superannuation fund);

"the Male Wages Grades schemes" means the pension schemes respectively established by the British Transport Commission (Male Wages Grades Pensions) Regulations 1954(e), as amended (f), and by the London Transport (Male Wages Grades Pensions) Order 1966(g) and a "Male Wages Grades scheme" means one of those schemes;

(a) 10 & 11 Eliz. 2. c. 46. (b) 52 & 53 Vict. c. 63. (c) 1964 c. 40.
(d) 6 & 7 Eliz. 2. c. 72. (e) S.I. 1954/898 (1954 I, p. 175).
(f) S.I. 1957/1455, 1960/784 (1957 I, p. 177 ; 1960 I, p. 430).
(g) S.I. 1966/1164 (1966 III, p. 2789).

"nationalised transport body" means any of the following:—

the British Railways Board,

the London Transport Board,

the British Transport Docks Board,

the British Waterways Board,

the Transport Holding Company, and

a subsidiary of any of the foregoing bodies;

"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; and

"reckonable service" in relation to a pension scheme means any period, or aggregate of periods, of service ranking for benefit under the scheme.

Application of the Order

2.—(1) The provisions of this Order shall apply to:—

(*a*) the following pension schemes which relate in whole or in part to the provision of pensions in respect of service rendered in the employment of a nationalised transport body, that is to say:—

(i) every funded scheme which so relates, and

(ii) the Male Wages Grades schemes,

(any such scheme being in this Order referred to as a "transport pension scheme"), so as to enable the persons administering any of those schemes to make payments or transfers of assets as hereinafter provided to the persons administering any pension scheme referred to in sub-paragraph (*b*) of this paragraph, and

(*b*) every pension scheme which relates in whole or in part to the provision of pensions in respect of service rendered in the employment of a harbour authority and which has been approved by the Commissioners of Inland Revenue for the purpose of this Order (any such scheme being in this Order referred to as a "harbour pension scheme"), so as to enable the persons administering any such scheme to carry out any arrangements which are made by them in pursuance of this Order with the persons administering a transport pension scheme, and which concern any such payments or transfers of assets as are mentioned in sub-paragraph (*a*) of this paragraph.

(2) Every pension scheme referred to in paragraph (1) of this Article shall have effect as if the provisions of this Order (so far as relevant) were terms of the scheme, any other term thereof, whether express or implied, to the contrary notwithstanding.

Transfer of members to pension schemes of harbour authorities

3. Where, in consequence of the provisions of a harbour revision order or a harbour reorganisation scheme or of a local enactment having like effect, a person who participates in a transport pension scheme in connection with his employment by a nationalised transport body ceases to be in that employment and enters the employment of a harbour authority (other than a nationalised transport body), and on entering such employment he becomes entitled to participate in a harbour pension scheme relating thereto (such person being in this Order referred to as a "transferring member"), then the provisions of Articles 4 or 5 of this Order shall have effect according as the transport pension scheme in which he was so participating was a funded scheme or a Male Wages Grades scheme.

4. Where the transport pension scheme in which the transferring member was participating is a funded scheme, the portion of the funds of that scheme properly attributable to the reckonable service of the transferring member for the purposes of that scheme shall be determined and the persons administering that scheme shall, after deducting therefrom such amount as may be necessary to cover the cost actually incurred by them in making the apportionment and transfer and also an amount equal to any income tax which may then become payable by virtue of regulations made under section 379 of the Income Tax Act 1952(a), transfer the portion so determined, either by way of transfer of assets or payment of money or in both such ways, to the persons administering the harbour pension scheme in which the transferring member becomes entitled to participate, to be held by them subject to the provisions of that scheme to the intent that the transferring member may become entitled to such benefit thereunder as may be determined having regard to the amount transferred or paid as aforesaid.

5.—(1) Where the transport pension scheme in which the transferring member was participating is a Male Wages Grades scheme and the provisions of paragraph (2) of this Article do not apply, a sum representing the value of the transferring member's pension rights under that scheme shall be determined and the nationalised transport body administering that scheme shall, after deducting therefrom such amount as may be necessary to cover the cost actually incurred by that body in determining and paying the same, pay that sum to the persons administering the harbour pension scheme in which the transferring member becomes entitled to participate, to be held by them subject to the provisions of that scheme to the intent that the transferring member may become entitled to such benefit thereunder as may be determined having regard to the amount paid as aforesaid.

(2) If the Male Wages Grades scheme in which the transferring member was participating immediately before he ceased to be in the employment of a nationalised transport body is then a funded scheme, the provisions of Article 4 of this Order shall have effect instead of the provisions of paragraph (1) of this Article.

6. If on any transfer or payment under the provisions of either of the last two foregoing Articles of this Order the portion transferred or the sum paid (as the case may be) exceeds the aggregate of the following:—

(*a*) the contributions actually paid by the transferring member under the provisions of the transport pension scheme,

(*b*) any interest which under the terms of that scheme would have been payable on those contributions if a refund thereof had then been claimed by the transferring member, and

(*c*) in a case where the transferring member has participated in another pension scheme before becoming a member of the transport pension scheme and a transfer value has been paid to the transport pension scheme in respect of such previous participation, any sum which is for the purpose of the transport pension scheme treated as the transferring member's own contributions under such other pension scheme,

then the amount of that excess shall be regarded as an employer's contribution for the purposes of the harbour pension scheme.

Exclusion of alternative benefits

7. In any case where any payment or transfer of assets from a transport pension scheme falls to be made under the provisions of this Order in respect of a transferring member no payment or transfer of assets shall be made and no other benefit shall be granted under any other provision of that scheme on

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

the occasion of the cessation of employment as a result of which the payment or transfer of assets under the provisions of this Order falls to be made.

Determination of questions

8.—(1) Where under any of the foregoing provisions of this Order any matter or thing is to be determined in relation to a transferring member it shall be determined by agreement between:—

(*a*) the persons administering the transport pension scheme in which he was participating, on the one hand, and

(*b*) the persons administering the harbour pension scheme in which he becomes entitled to participate, on the other hand,

or, in default of such agreement, by the Minister.

(2) For the purposes of making any such determination as aforesaid the persons administering the transport pension scheme and the persons administering the harbour pension scheme shall furnish to each other and, where appropriate, to the Minister, such documents and information relevant to the matter as may be necessary in all the circumstances.

Sealed with the Official Seal of the Minister of Transport the 18th November 1966.

(L. S.) *Barbara Castle,*

The Minister of Transport.

EXPLANATORY NOTE

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

This Order provides for the apportionment of and transfer of assets from funded pension schemes of the nationalised transport bodies (the British Railways Board, the London Transport Board, the British Transport Docks Board, the British Waterways Board, the Transport Holding Company and their subsidiaries) and for the payment of transfer values from the British Transport Commission (Male Wages Grades) Pension Scheme and the London Transport (Male Wages Grades) Pension Scheme in cases where a participant in one of these schemes is transferred to a harbour authority outside the nationalised transport industry by virtue of a harbour revision order or a harbour re-organisation scheme under the Harbours Act 1964 or a local act having the same effect, and becomes eligible to participate in a pension scheme established by that harbour authority (Articles 3, 4 and 5).

Provision is also made for ascertaining the portion of any transferred assets or payment which is to be regarded as the employer's contribution for the purposes of the harbour authority's pension scheme (Article 6), for excluding from any other benefits under the terms of the nationalised transport pension scheme a participant on whose behalf such a transfer or payment has been made (Article 7), and for determining questions arising in connection with such transfers or payments to a harbour authority's pension scheme (Article 8).