STATUTORY INSTRUMENTS

1964 No. 1329

TRANSPORT

PENSIONS

The British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964

Made - - - -	21*st August* 1964
Laid before Parliament	28*th August* 1964
Coming into Operation	31*st August* 1964

The Minister of Transport, in exercise of his 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 31st August 1964, and shall have effect from the vesting date.

(2) This Order may be cited as the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964.

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

"the Act" means the Transport Act 1962;

"appropriate Transfer Order", as respects an existing scheme, means whichever of the following Orders, namely,

(*a*) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962(b), and

(*b*) the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962(c),

is the Order by which liabilities and functions in relation to that scheme were transferred, and, where the scheme is an arrangement to which the former of the above Orders applies, any reference (whether in this definition or elsewhere in this Order) to the transfer by such an Order of liabilities or functions in relation to a scheme includes a reference to the placing (by virtue of the Scheme made by the Commission under that Order) of the responsibility for making payments under that arrangement, and any reference to liabilities or functions, or to the rights, liabilities and functions of the Commission, in connection with such a transfer as aforesaid includes a reference to such responsibility;

(a) 10 & 11 Eliz. 2. c. 46. (b) S.I. 1962/2715 (1962 III, p. 3692).
(c) S.I. 1962/2758 (1962 III, p. 3866).

" a Board " means any of the following bodies, namely—

the British Railways Board,

the London Transport Board,

the British Transport Docks Board, and

the British Waterways Board ;

" the Commission " means the British Transport Commission ;

" employing body " means, in relation to a person, the nationalised transport body employing him ;

" existing scheme " has the meaning assigned to that expression in Article 2 of this Order ;

" former employment " and " new employment " mean, in relation to a person who ceases to be in the employment of a nationalised transport body and then (either immediately, or after an intervening period) re-enters the employment of that nationalised transport body or enters the employment of another nationalised transport body, the employment which has ceased and the employment which is re-entered or entered (as the case may be) respectively, and " former employing body " and " new employing body " shall be construed accordingly, and any reference to entering, in connection with the new employment or the employment of the new employing body, shall include a reference to re-entering such employment in a case where the former employing body and the new employing body are the same nationalised transport body ;

" the Holding Company " means the Transport Holding Company established by the Act ;

" insurance scheme " means a scheme for the provision of pensions by way 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(a) (including contracts or policies made with such a company for the purpose of implementing any form of private superannuation fund) ;

" intervening period " means, in relation to a person who ceases to be in the employment of a nationalised transport body and then, after an interval, re-enters the employment of that nationalised transport body or enters the employment of another nationalised transport body, the period which elapses between the cessation of the former employment and the commencement of the new employment and is a period at no time within which that person is in the employment of a nationalised transport body ;

" the Minister " means the Minister of Transport ;

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

(*a*) a Board,

(*b*) the Holding Company,

(*c*) a subsidiary of a Board or of the Holding Company ;

" pensionable service " means service ranking for benefit under a pension scheme ;

" successor body ", in relation to an existing scheme, means the nationalised transport body to which the rights, liabilities and functions of the Commission relating to that scheme were transferred by the appropriate Transfer Order, or, where those rights, liabilities and functions

(a) 6 & 7 Eliz. 2. c. 72.

were transferred by that Order to more than one such body, any one of the nationalised transport bodies to which those rights, liabilities and functions were so transferred;

" 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;

" the vesting date " means the date appointed by the Minister pursuant to section 31 of the Act, that is to say, the 1st January, 1963; and

" withdrawal benefits " means, in relation to a participant in an existing scheme who ceases to be in the employment of a nationalised transport body, any payments or transfers of assets (including paid up insurance policies) which fall to be made to or in respect of him under the terms of the scheme on the cessation of that employment, and any reference to payment or repayment in relation to withdrawal benefits shall include a reference to transfer or retransfer where such benefits consist of or include assets other than cash.

(4) 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 the Order

2.—(1) This Order shall have effect as respects every existing scheme, that is to say, every pension scheme which relates in whole or in part to the provision of pensions in respect of service rendered in the employment of the Commission or of a subsidiary of the Commission or in the employment of a nationalised transport body and is either—

(*a*) a pension scheme in relation to which the rights, liabilities and functions of the Commission were transferred on the vesting date to a Board or to the Holding Company by the British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962, or

(*b*) an arrangement in relation to which the responsibility for making payments was placed on a Board or the Holding Company by the Scheme made by the Commission under the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962.

(2) Every existing 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, and to re-enter, an existing scheme given by this Order shall be additional to any similar rights subsisting under the terms of that scheme apart from the provisions of this Order and nothing in this Order shall derogate from such similar rights where they subsist.

Continuing participation in pension schemes

3.—(1) This Article shall apply to any person who—

(*a*) participates in an existing scheme in connection with his employment by a nationalised transport body,

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

(*b*) at any time after the vesting date ceases to be in the employment of that nationalised transport body, and

(*c*) enters the employment of another nationalised transport body immediately after the cessation of his former employment.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, any person to whom this Article applies shall not be required, solely by reason of the cessation of his former employment, to cease to participate in the existing scheme in which he participated in connection with that employment, but shall, if the terms of the scheme (other than the terms which would require participation to cease for the reason aforesaid) so permit, continue to participate in that scheme in connection with his new employment upon and subject to the terms of that scheme (which shall have effect in relation to his new employment as it had effect in relation to his former employment), and for the purposes of that scheme the former employment and the new employment shall be treated as continuous, and so long as he continues to participate in that existing scheme by virtue of the provisions of this paragraph the terms of any other pension scheme of the new employing body which require employees of that body to participate therein shall not apply to him.

(3) If a person to whom this Article applies, within three months of the date of his entering the new employment or the date of the coming into operation of this Order (whichever date is later), gives notice in writing to the former employing body, the new employing body and the trustees of, or the persons administering, the relevant scheme, that he does not desire to continue to participate in that scheme (each such notice to be given on the same date), then, upon the giving of that notice, the provisions of paragraph (2) of this Article shall be deemed never to have applied in relation to that person and his participation in the relevant scheme (in so far as it depends on the provisions of this Article) shall be deemed to have ceased when he ceased to be in the employment of the former employing body.

(4) Where in connection with the cessation of his former employment any withdrawal benefits are paid from the relevant scheme to or in respect of a person to whom this Article applies, the provisions of paragraph (2) of this Article shall not apply in relation to him and his participation in the relevant scheme (in so far as it depends on the provisions of this Article) shall be deemed to have ceased when his former employment ceased, unless within three months of the date of entering his new employment or the date of the coming into operation of this Order (whichever date is later), or such longer period as the trustees of, or the persons administering, that scheme may allow in relation to him, he pays to them a sum equivalent to the amount of such withdrawal benefits, together with (where the trustees or the persons aforesaid so require) the amount of any income tax deducted therefrom when those benefits were paid.

Permission to re-enter pension schemes

4.—(1) This Article shall apply to any person who—

(*a*) participates in an existing scheme in connection with his employment by a nationalised transport body,

(*b*) at any time after the vesting date ceases to be in the employment of that nationalised transport body, and

(*c*) re-enters the employment of that nationalised transport body, or enters the employment of another nationalised transport body, after an intervening period not exceeding twelve months.

(2) Subject as hereinafter provided, the trustees of, or the persons administering, the relevant scheme shall have power, with the consent of the former employing body and the new employing body, and, where the scheme is an insurance scheme, the insurance company, to grant to a person to whom this Article applies permission, in accordance with the provisions of this Article, to re-enter that scheme in connection with his new employment upon the terms hereinafter mentioned.

(3) A person desiring to re-enter an existing scheme under the provisions of this Article shall, within three months of the date of his entering the new employment or the date of the coming into operation of this Order (whichever date is later), make application in writing to the trustees of, or the persons administering, that scheme for permission to re-enter it, and the trustees or the persons aforesaid shall consider that application and may, if they think fit, and subject to the consents specified in paragraph (2) of this Article, decide to grant that application, or they may decide to reject that application, and in any case they shall, as soon as may be after making their decision, notify the applicant thereof in writing.

(4) The terms upon which a person may be permitted to re-enter an existing scheme under the provisions of this Article shall, subject as hereinafter provided, be such terms (including terms for the repayment of any withdrawal benefits) as the trustees of, or the persons administering, that scheme may prescribe.

(5) The terms referred to in the last preceding paragraph of this Article may (to the extent specified thereby) provide, in respect of the person concerned, for the periods of his former employment and his new employment to be aggregated for the purposes of the relevant scheme and may also (to the extent specified thereby) provide for the intervening period to be taken into account in calculating any minimum qualifying period of service under the terms of that scheme, but except as aforesaid, and except also in so far as any transfer value from another pension scheme may (under reciprocal arrangements for the preservation of pension rights) be received in respect of the intervening period by the trustees of, or the persons administering, the relevant scheme, such terms shall not provide for any part of the intervening period to be regarded as a period of pensionable service for the purposes of that scheme nor shall they permit the person concerned to acquire pension rights in respect of that period by making payments (whether calculated on the basis of employer's or employee's contributions or otherwise) to the trustees of, or the persons administering, that scheme.

5.—(1) This Article shall apply to any person who—

(*a*) participated in an existing scheme in connection with his employment by the Commission, or by a subsidiary of the Commission, before the vesting date,

(*b*) before the vesting date ceased to be in such employment, and

(*c*) enters the employment of a nationalised transport body after the vesting date and after an intervening period not exceeding twelve months.

(2) Subject as hereinafter provided, the provisions of paragraphs (2) to (5) of Article 4 of this Order shall apply in relation to a person to whom this Article applies.

(3) For the purpose of this Article and of paragraphs (2) to (5) of Article 4 of this Order as applied by paragraph (2) of this Article (including the interpretation of any expressions therein which are defined in Article 1 of this Order)—

(*a*) the expression "nationalised transport body" shall be deemed to include, in respect of any period before the vesting date, the Commission and any subsidiary of the Commission, and

(*b*) the expression "former employing body" shall, in relation to a person to whom this Article applies, mean, so far as regards anything occurring or to be done after the vesting date, the nationalised transport body which would have become the employer of that person on the vesting date had his employment by the Commission, or by a subsidiary of the Commission (as the case may be), continued from the date of its cessation until the vesting date.

Non-contributory schemes

6. Where by virtue of a person's employment by a nationalised transport body on or after the vesting date or by the Commission or a subsidiary of the Commission before that date pension rights accrue or have accrued to him under an existing scheme without his having himself contributed under the scheme, and that scheme is a scheme from which the benefits are or will be receivable as of right, the provisions of this Order shall apply in relation to that person as if he had been a participant in that scheme, and the references in this Order to participation shall be construed accordingly.

Obligations of Employing Bodies

7. Where in consequence of the provisions of this Order an existing scheme includes among its participants any person whose employing body is not the successor body, or one of the successor bodies, for that scheme, then—

(*a*) any sums required by the terms of that scheme to be paid by that person as his contributions to the scheme shall be deducted by the employing body from his salary or wages and shall be paid by that body in accordance with those terms to the trustees of, or the persons administering, the scheme; and

(*b*) any sums required by the terms of that scheme to be paid in respect of that person by his employer as the employer's contributions to the scheme shall be paid by the employing body in accordance with those terms to the trustees of, or the persons administering, the scheme.

8.—(1) Where in consequence of the provisions of this Order—

(i) an existing scheme includes among its participants any person whose employing body is not the successor body, or one of the successor bodies, for that scheme, or

(ii) an existing scheme has included among its participants any person whose employing body was not the successor body, or one of the successor bodies, for that scheme, and a pension or other benefit is payable thereunder in respect of that person's service in the employment of that employing body,

the following provisions shall apply in relation to that scheme—

(*a*) the employing body aforesaid shall make such payments to the successor body or successor bodies by way of contributions towards

the administrative expenses of the scheme or (subject to the provisions of paragraph (2) of this Article) towards any payments which any successor body is obliged to make in the discharge of the liabilities, or in the performance of the functions, transferred to it by the appropriate Transfer Order in relation to the scheme, or to implement any guarantee given by such successor body or binding upon it by virtue of the provisions of that Order in relation to the scheme, as may be equitable having regard to all the circumstances of the case, including the number of participants, or former participants, who are or were in the employment of that employing body (being participants whose continuing or resumed participation depends, or has depended, upon the provisions of this Order), and in the case of any disagreement between the employing body and any successor body, or between the successor bodies themselves, as to their obligations under this Article, the matter shall on the application of any of the bodies concerned be determined by the Minister whose decision shall be final; and

(*b*) the Minister may, on the application of the employing body aforesaid or of any successor body, direct that any power in relation to that scheme (whether a power of appointing trustees, amending rules, approving the admission of members, or otherwise howsoever in relation to that scheme) exercisable by any successor body shall be exercisable by the employing body to such extent (whether instead of such successor body or jointly with that body) and in such manner as may appear to the Minister to be appropriate, and where any such direction is so given the terms of the scheme shall, whilst the direction remains in force, have effect subject to the provisions of the direction.

(2) Except in pursuance of an agreement made, with the consent of the Minister, between the employing body and the successor body concerned, the employing body shall not by virtue of paragraph (1) of this Article be required to make any payment to any successor body by way of a contribution towards any payments which the successor body is obliged to make in the discharge of any liability transferred to it by the appropriate Transfer Order, being a liability in connection with any pension fund monies which were deposited with the Commission before the vesting date for the purposes of any existing scheme.

Given under the Official Seal of the Minister of Transport the 21st August 1964.

(L.S.) *T. Padmore,*
Secretary to the Ministry of Transport.

EXPLANATORY NOTE

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

This Order provides for staff 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), who move from one body to another within the nationalised transport industry, to continue in membership of their pension schemes.

A person who leaves a nationalised transport body and immediately enters the employment of another such body is entitled to remain in membership of his pension scheme unless he gives notice to the contrary within three months of the date of transfer, and provided the terms of the scheme (other than those requiring membership to cease on transfer) permit (Article 3). Where there is an intervening period, not exceeding twelve months, between a person's leaving a nationalised transport body and his re-entering the employment of that body or entering the employment of another such body, the trustees of, or the persons administering, the appropriate pension scheme are empowered to re-admit that person to membership on such terms and conditions as they may prescribe (Article 4). These provisions apply to all persons who transfer after the vesting date (the date on which all the property, rights and liabilities of the British Transport Commission were vested in the British Railways Board, the London Transport Board, the British Transport Docks Board, the British Waterways Board and the Transport Holding Company) (Article 1), and also to those persons who left the British Transport Commission before that date but who, before the expiry of a period of twelve months, enter the employment of a nationalised transport body (Article 5). Members of non-contributory pension schemes are included (Article 6).

Provision is also made for the nationalised transport body to whose employment a person moves to make appropriate contributions for the purposes of the pension scheme to which that person belongs (Article 7). In addition, certain adjustments can be made in relation to the administration of pension schemes (Article 8).