STATUTORY INSTRUMENTS

1973 No. 780 (S.62)

TRANSPORT

The Greater Glasgow Passenger Transport Area (Transfer of Undertaking) Order 1973

Made - - - -	19*th April* 1973
Laid before Parliament	19*th April* 1973
Coming into Operation	10*th May* 1973

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In exercise of the powers conferred upon me by section 17 of the Transport Act 1968(a) and of all other powers enabling me in that behalf, and after consultation with the Corporation of the City of Glasgow, I hereby make the following Order:—

Commencement and citation

1. This Order shall come into operation on the 10th May 1973 and

(a) 1968 c. 73.

may be cited as the Greater Glasgow Passenger Transport Area (Transfer of Undertaking) Order 1973.

Interpretation

2.—(1) In this Order, unless otherwise expressly provided or the context otherwise requires,—

"the Act" means the Transport Act 1968;

"the appointed day" means the 1st June 1973;

"the Authority" means the Greater Glasgow Passenger Transport Authority established in accordance with the Designation Order;

"the 1964 Local Act" means the Glasgow Corporation Consolidation (Water, Transport and Markets) Order Confirmation Act 1964**(a)**;

"the Corporation" means the Corporation of the City of Glasgow;

"the Designation Order" means the Greater Glasgow Passenger Transport Area (Designation) Order 1972**(b)**;

"the Executive" means the Greater Glasgow Passenger Transport Executive established in accordance with the Designation Order;

"highway authority" has the same meaning as it has in section 257(1) of the Road Traffic Act 1960**(c)** for the purposes of the application of that Act to Scotland;

"the identifying date" means the 19th April 1968;

"public service vehicle" has the same meaning as it has for the purposes of the Road Traffic Act 1960;

"statutory provision" means a provision contained in, or in an instrument made under, an Act, and "local statutory provision" means a statutory provision of local application;

"subsisting", in relation to interests, rights, liabilities, powers or duties, means subsisting immediately before the appointed day;

"transferred employee" means an employee of the Corporation who is transferred to the service of the Executive by virtue of this Order;

"transport undertaking" has the same meaning as it has in section 46 of the 1964 Local Act, and "subway undertaking" means that part of the transport undertaking which comprises the subway undertaking carried on by the Corporation; and

"year" means the financial year of the Corporation, being the year for which their accounts are made out, as described in section 5 of the Glasgow Corporation Act 1909**(d)**.

(2) In this Order—

(*a*) any reference to a numbered Article or Schedule shall, unless the reference is to an Article of, or a Schedule to, a specified Order or to the Schedule to a specified Act, be construed as a reference to the Article or Schedule bearing that number in this Order;

(*b*) any reference in any Article of this Order, or in any Schedule to this Order, to a numbered paragraph shall, unless the reference is to a paragraph of a specified Article or of a specified Schedule, be construed as a

(a) 1964 c. xliii.
(b) S.I. 1972/1094 (1972 II, p. 3230).
(c) 1960 c. 16.
(d) 1909 c. cxxxvii.

reference to the paragraph bearing that number in the first mentioned Article or Schedule, as the case may be.

(3) Except where the context otherwise requires, any reference in this Order to any enactment or instrument shall be construed as a reference to that enactment or instrument as amended, extended or applied by or under any other enactment or instrument (including this Order).

(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.

Transfers—general provisions

3. Subject to and in accordance with the provisions of this Order, there shall be transferred on the appointed day to the Executive from the Corporation as respects the transport undertaking—

(*a*) the interests, rights and liabilities of the Corporation, and

(*b*) the powers and duties of the Corporation,

for the transfer of which provision is made in Articles 5 and 12 respectively, and there shall also be transferred on the appointed day to the service of the Executive from the Corporation as respects the transport undertaking the persons employed by the Corporation for the transfer of whom provision is made in Article 15.

Information to be supplied before transfer

4.—(1) Not later than twenty one days after the coming into operation of this Order, the Corporation shall send to the Executive a statement giving, in relation to the transport undertaking, particulars of—

(*a*) the interests, rights and liabilities for the transfer of which provision is made in Article 5,

(*b*) the loans in respect of which the Executive will be required by Article 6 to make payments to the Corporation,

(*c*) the amount of any capital expenditure which the Executive will be required by Article 7 to pay to the Corporation,

(*d*) the average annual sum by reference to which the payment provided for in Article 11 will fall to be calculated, and

(*e*) the names, duties, remuneration, and other terms and conditions of employment of the employees for the transfer of whom to the service of the Executive provision is made in Article 15,

and shall also, if so requested by the Executive, furnish to them as soon as may be such further information in elucidation or supplementation of that statement as the Executive may reasonably require.

(2) In so far as precise particulars of any of the matters referred to in paragraph (1) cannot be included in a statement under that paragraph because that statement is given before the appointed day, the particulars of that matter shall be based on the best estimate which can be made at the time when the statement is prepared.

(3) Not later than twelve months after the appointed day, the Corporation shall send to the Executive a final statement showing, in relation to the transport undertaking, the interests, rights and liabilities transferred from the Corporation to the Executive on the appointed day by virtue of this Order, the loans in respect

(a) 1889 c. 63.

of which the Executive will be required by Article 6 to make payments to the Corporation and the amount of any capital expenditure which the Executive will be required by Article 7 to pay to the Corporation.

(4) If any question arises between the Executive and the Corporation as to the accuracy or adequacy of any statement or further information under paragraph (1), or of any final statement under paragraph (3), it shall be determined by an arbiter to be appointed in accordance with Article 21, but this provision for reference to arbitration shall be without prejudice to the power of the Secretary of State to give a direction under paragraph 1 of Schedule 4 to the Act (as modified by Article 5) in the circumstances mentioned in that paragraph.

Transfer of interests, rights and liabilities

5.—(1) Subject to paragraphs (2), (3) and (4) and to the provisions of Articles 9 and 10, the transfer under Article 3 of the interests, rights and liabilities of the Corporation as respects the transport undertaking shall be a transfer to the Executive from the Corporation of—

(*a*) all the subsisting interests of the Corporation in the property which on the appointed day is used, or has at any time since the identifying date been used, by the Corporation for or in connection with the purposes of the transport undertaking, and

(*b*) all the subsisting rights and liabilities of the Corporation which on the appointed day are, or have at any time since the identifying date been, rights enjoyed or liabilities incurred for or in connection with the purposes of the transport undertaking.

(2) Paragraph (1) shall not apply in relation to—

(*a*) the liabilities of the Corporation in respect of money borrowed on capital account, being liabilities in connection with which the Executive are required by Article 6 to make payments to the Corporation, or

(*b*) any sinking fund established by the Corporation for the redemption of any loan which falls within (*a*) above, or

(*c*) the interests, rights or liabilities of the Corporation as respects the provision of superannuation or other pension benefits for or in respect of persons who are or have been employed by them.

(3) Paragraph (1) shall not apply in relation to any subsisting interest in property, or any subsisting right or liability, of the Corporation, in a case where—

(*a*) at any time between the identifying date and the coming into operation of this Order the property has ceased to be used, or the right has ceased to be enjoyed, by the Corporation for or in connection with the purposes of the transport undertaking, or the liability has ceased to be treated by the Corporation as a liability of the transport undertaking, and

(*b*) the cessation has occurred in the ordinary course of carrying on the transport undertaking, or in circumstances involving, where an interest in property or a right is concerned, the replacement of the interest or right by another interest or right which is not less beneficial to the transport undertaking and which will be transferred to the Executive under this Order, and

(*c*) the cessation has not prejudiced the manner in which, or the extent and advantage to which, the transport undertaking was being carried on by the Corporation on the identifying date.

(4) Paragraph (1) shall not apply in relation to any subsisting interest in property, or any subsisting right or liability, of the Corporation, in a case where between the coming into operation of this Order and the appointed day—

(*a*) the Executive, being satisfied that the property, right or liability in question is not needed for the full and beneficial carrying on of the transport undertaking by them after the appointed day, have consented to the Corporation ceasing to use or enjoy it for or in connection with the purposes of the transport undertaking or to treat it as a liability of the transport undertaking (as the case may be), and

(*b*) the Corporation have, in accordance with such consent, ceased so to use the property, enjoy the right or treat the liability.

(5) In the application of Schedule 4 to the Act to the transfer for which provision is made in this Article, that Schedule shall have effect subject to the following modifications:—

(*a*) as if for any reference in that Schedule to the transferor and the transferee, there were substituted a reference to the Corporation and the Executive respectively and as if for any reference to the transfer date there were substituted a reference to the appointed day; and

(*b*) paragraph 1 of that Schedule shall have effect as if the entire activities of the Corporation and all their property, rights and liabilities (whether relating to the transport undertaking or not so relating) were the Corporation's undertaking, and as if the transfer for which provision is made as aforesaid as respects the transport undertaking were the transfer of all property, rights and liabilities comprised in a specified part of the Corporation's undertaking; and

(*c*) before giving a direction under paragraph 1(7) of that Schedule, the Secretary of State may, by notice in writing to the Corporation and the Executive, request them to refer to arbitration under Article 21 within the time stated in the notice such matters upon which it is unlikely that agreement will be reached, or which appear to the Secretary of State to be relevant thereto, as may be specified in the notice, and, where any matter has been so referred to arbitration in pursuance of the Secretary of State's notice, the Secretary of State shall not give a direction under paragraph 1(7) of the said Schedule 4 in the case in question until the arbiter has given his decision or the arbitration is otherwise brought to an end, and the Secretary of State shall, in framing his direction, have regard to any decision of the arbiter on the matter referred to him.

Repayment of loan charges to the Corporation

6.—(1) Subject to the provisions of this Article, the Executive shall pay to the Corporation in the year current on the appointed day and in each year thereafter any amounts which, in pursuance of arrangements in force immediately before the appointed day for the redemption of loans and the payment of interest thereon and debt management expenses in respect thereof, would, but for this Order, have fallen on or after that day to be debited in the accounts of the transport undertaking for that year in respect of money borrowed for the purposes of the transport undertaking:

Provided that, in calculating the amount which would have fallen to be debited as aforesaid in respect of any loan, regard shall be had to the income earned by any sinking fund established for the redemption of the loan.

(2) Unless the Executive and the Corporation otherwise agree, any amounts payable under paragraph (1) shall be paid by periodical instalments, the period

whereof is determined by reference to the period for which the corresponding amounts were being debited in the accounts of the transport undertaking immediately before the appointed day.

(3) Any question which may arise as to the method of calculating any amount for the purposes of paragraph (1) shall be determined by an arbiter to be appointed either by agreement between the parties or, in default of such agreement, by the President of the Institute of Municipal Treasurers and Accountants.

(4) Any payment made by the Executive under the foregoing provisions of this Article in respect of the liability for the redemption of a loan shall be deemed to be a capital payment, and any other such payment shall be deemed to be a revenue payment.

(5) The Executive may agree with the lender and with the Corporation for the transfer to the Executive of the liability of the Corporation in connection with any outstanding loan in respect of the transport undertaking.

(6) In this Article "loans" includes heritable securities, loans, bonds, annuities, and advances from a consolidated loans fund or loans pool, and references to redemption of a loan include references to the repayment of advances.

Payments by the Executive to the Corporation

7. The Executive shall pay to the Corporation as soon as practicable after the appointed day the amount of any capital expenditure in relation to which the following conditions are satisfied:—

(*a*) the expenditure has been incurred by the Corporation before the appointed day for or in connection with the purposes of the transport undertaking and has been paid by them before that day; and

(*b*) the expenditure has not been defrayed by the Corporation from money raised in the exercise of a statutory borrowing power so as to constitute a loan to which the provisions of Article 6 will apply, and is not represented by a liability transferred to the Executive under Article 5; and

(*c*) the Corporation intended immediately before the appointed day to defray the expenditure from money raised in exercise of a statutory borrowing power—

(i) which was then available to them, or

(ii) which they intended and, but for this Order, could reasonably have expected to obtain.

Carrying on of the transport undertaking

8.—(1) The Corporation, in carrying on the transport undertaking until the appointed day, shall not, without the previous consent of the Executive—

(*a*) enter into or vary any contract, or incur any liability, otherwise than in the ordinary course of carrying on the transport undertaking, or incur any unnecessary or exceptional expenditure, other than expenditure reasonably incurred in respect of accountancy, actuarial or legal costs in connection with the transfers provided for in this Order, or

(*b*) increase the remuneration, salaries, wages or emoluments of their employees in connection with the transport undertaking except in accordance with any contract of service or scale of remuneration or at the instance of any joint industrial council or other wage negotiating body.

(2) Nothing in this Order shall impose any liability on the Executive in respect of anything done in contravention of paragraph (1).

Recovery of sums transferred from the accounts of the transport undertaking

9.—(1) Where at any time after the identifying date and before the appointed day—

(*a*) the Corporation have, without the consent of the Executive, debited any amount in the accounts of the transport undertaking and credited that amount in any other account of the Corporation, and

(*b*) that amount would, but for its having been so debited, have been transferred to the Executive by virtue of this Order,

then, subject to paragraph (2), the Corporation shall on the appointed day become liable to pay that amount to the Executive, except in so far as the amount was properly so debited and credited by way of an adjustment of the accounts of the Corporation in respect of any transactions carried out or service provided partly for the purposes of the transport undertaking and partly for other purposes.

(2) Any claim by the Executive under this Article shall be made not later than the first anniversary of the appointed day.

Inexpedient or imprudent transactions

10. The provisions of Schedule 1 shall have effect as respects transactions which were not reasonably necessary or expedient for the purposes of the transport undertaking, or were acts of unreasonable imprudence on the part of the Corporation.

Transitional assistance

11.—(1) If, in each of the years in the period of three years ending on the 31st May 1973, it has been the practice of the Corporation to debit in the accounts of the transport undertaking a sum in respect of the general administrative expenses of the Corporation, the Executive shall on the 31st May 1974 make the payment provided for in this Article to the Corporation by way of contribution to the cost of the adjustments arising from the severance of the transport undertaking from the other activities of the Corporation.

(2) The payment to be made by the Executive under this Article shall be a single payment of five-fourths of the average annual sum debited by the Corporation as aforesaid during the said period of three years.

(3) The payment to be made by the Executive under this Article to the Corporation shall be additional to any payment which the Executive may be required to make to the Corporation by virtue of any agreement made between the Executive and the Corporation which provides for the rendering to the Executive by the Corporation of specific services such as were rendered by the Corporation to the transport undertaking before the appointed day as part of their other activities.

Transfer of powers and duties—modification of statutory provisions

12.—(1) Subject to the provisions of this Article and of Articles 13 and 14, the transfer under Article 3 of the powers and duties of the Corporation as respects the transport undertaking shall be a transfer to the Executive from the Corporation of all the subsisting powers and duties conferred or imposed on the Corporation by or under any Act for the purposes of or in connection with the transport undertaking.

(2) Paragraph (1) shall not apply in relation to the powers and duties of the Corporation as respects the provision of superannuation or other pension benefits for or in respect of persons who are or have been employed by them.

(3) Subject to the provisions of this Article and of Articles 13 and 14, any statutory provision which confers or imposes, or which otherwise relates to, any such power or duty as is transferred to the Executive as aforesaid shall have effect, as respects anything falling to be done on or after the appointed day, as if any reference therein (however worded and whether express or implied) to the Corporation were construed—

(*a*) in a case where the statutory provision relates solely to the transport undertaking, as a reference to the Executive, and

(*b*) in a case where the statutory provision relates to the transport undertaking and to other activities of the Corporation, as including a reference to the Executive.

(4) The provisions of paragraph (3) shall be without prejudice to the application of paragraph 8 of Schedule 4 to the Act in a case where that paragraph applies to any statutory provision by virtue of section 17(6) of the Act.

(5) Where by reason of this Order any power conferred by a local statutory provision to make byelaws or other regulations in relation to the transport undertaking is transferred to the Executive, any byelaws or regulations made in exercise of that power and in force immediately before the appointed day shall have effect on and after that day as if they had been made by the Executive.

(6) No local statutory provision with respect to the financial duties, the application of revenue, the borrowing powers or the accounts of the Corporation in relation to the transport undertaking, other than section 93 of the 1964 Local Act, shall apply to the Executive.

(7) Subject to the provisions of paragraph (10), no local statutory provision shall apply to the Executive which immediately before the appointed day has effect as respects the transport undertaking so as to—

(*a*) impose a prohibition on the manufacture of vehicles by the Corporation, or

(*b*) prohibit or restrict the operation by the Corporation of public service vehicles on roads outside the area of the Corporation, or require the consent of the Secretary of State or of the relevant local or highway authority to, or to the manner of, such operation, or provide for the termination of such operation in certain events, or

(*c*) require the Corporation to make to the highway authority for any road on which there is being, or is to be, operated a service provided by the transport undertaking a contribution towards the cost of the maintenance, adaptation or improvement of that road so that it can be used or prepared for use by the service in question, or

(*d*) prohibit the carriage of goods on the vehicles of the transport undertaking, or

(*e*) limit the discretion of the Corporation as to the fares or rates which they may charge, or as to any other charges which they may demand, for the use of any service or facility provided by the transport undertaking (whether by specifying, or providing for specifying, the fares, rates or charges, or by fixing, or providing for fixing, maximum fares, rates or charges, or otherwise),

and no local statutory provision which in any other way limits the manner or extent of the operation of the transport undertaking shall have effect on and after the appointed day so as to prevent or restrict the exercise by the Executive

of the powers, or the performance by them of the duties, conferred or imposed upon them by Part II of the Act, but nothing in this paragraph shall—

(i) affect the application (subject to section 19 of the Act) of Part III of the Road Traffic Act 1960**(a)** or of any condition attached to a road service licence granted under that Act, or

(ii) affect the application of any order made, or having effect as if made, under the Road Traffic Regulation Act 1967**(b)**, or the application of any other local statutory provision of a similar nature which prohibits, restricts or regulates the use of any road by all vehicles or by all vehicles of any particular class or description, or

(iii) entitle the Executive to disregard a prohibition or restriction on the use of a particular route by public service vehicles of the transport undertaking in a case where the prohibition or restriction was specifically imposed for the protection of a particular operator of public service vehicles (not being the Corporation) named in the statutory provision imposing the prohibition or restriction, and that operator, or a successor in title of his, continues to operate such vehicles on that route on and after the appointed day, or

(iv) entitle the Executive to disregard a prohibition on the use of a particular highway, or the highways in a particular locality, being a highway or highways which are not maintainable at the public expense by any highway authority, by public service vehicles of the transport undertaking before obtaining the consent of the person (not being a highway authority) named in the statutory provision which imposes the prohibition as the person whose prior consent to such use is requisite.

(8) Where any local statutory provision, which immediately before the appointed day has effect as respects the transport undertaking so as to empower the Corporation to provide and maintain in any highway which is comprised in the route of public service vehicles, or on any land abutting on such a highway, at stopping places on the route, shelters or other accommodation for the use of persons intending to travel on such vehicles and barriers or posts for controlling the movement of such persons, has effect on and after that day so as to empower the Executive to provide and maintain such shelters or other accommodation or such barriers or posts as aforesaid, then the provisions of sections 2 and 3 of the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958**(c)** (which relate to consents to the exercise of powers to provide omnibus shelters etc and contain supplementary provisions thereto) shall—

(*a*) apply in relation to any exercise by the Executive of the power under the local statutory provision in question as they apply in relation to the exercise by a local authority of the power conferred by section 1 of the said Act of 1958, and

(*b*) have effect as respects anything falling to be done on or after the appointed day in substitution for so much (if any) of that local statutory provision as relates to the matters provided for in the said sections 2 and 3.

(9) Any local statutory provision which immediately before the appointed day has effect, as respects the transport undertaking, so as to empower the Corporation to place on or attach to posts or structures on or in the highway signs, directions or notices relating to the services provided by the transport undertaking

(a) 1960 c. 16.
(b) 1967 c. 76.
(c) 1958 c. 50.

shall have effect on and after the appointed day so as to empower the Executive to place or attach signs, directions or notices relating to any of the services provided by the transport undertaking on or to such posts or structures belonging to the Corporation as well as to other persons, but the Executive shall not exercise such power to place or attach any sign, direction or notice on or to a post or structure without first obtaining the consent of the person to whom the post or structure belongs.

(10) The subway undertaking shall be operated by the Executive on and after the appointed day in accordance with the relevant statutory provisions applicable thereto, and in particular (but without prejudice to the foregoing provisions of this paragraph) the Executive shall on and after the appointed day operate the subway undertaking in accordance with Part III G of the 1964 Local Act.

(11) No local statutory provision shall by virtue of this Article apply to any area to which it did not apply immediately before the appointed day.

(12) Nothing in this Article shall affect the application by the Designation Order of any statutory provision to the Executive.

Travel concessions—Buses

13.—(1) Where immediately before the appointed day there are in operation arrangements made by the Corporation for the granting of travel concessions under the Travel Concessions Acts 1955 and 1964**(a)** to any category of qualified persons travelling on the public service vehicles of the transport undertaking on any of the routes on which those vehicles then run, neither the provisions of this Order nor any transfer by virtue of this Order as respects the transport undertaking shall have effect so as to deprive on and after the appointed day—

(*a*) the Corporation of their powers under those Acts to defray out of the burgh fund, or

(*b*) any other local authority of their powers under section 138(2) of the Act to contribute to,

the cost of such travel concessions to that category of qualified persons travelling on the public service vehicles of the Executive on that route.

(2) For the purpose of such travel concessions as are mentioned in paragraph (1), on and after the appointed day—

(*a*) the Travel Concessions Acts 1955 and 1964 shall have effect in relation to the Corporation as if—

(i) the Corporation were still operating a public service vehicle undertaking and the public service vehicles of the Executive running on the route in question were still being run by the Corporation,

(ii) any reference in those Acts to arrangements for granting travel concessions included a reference to arrangements with the Executive for the grant by the Executive of travel concessions, and any reference in those Acts to the grant of travel concessions by a local authority included a reference to the grant of travel concessions by the Executive in pursuance of such arrangements, and

(iii) the reference in section 1(5) of the Public Service Vehicles (Travel Concessions) Act 1955 to transferring sums to the credit of the local authority's transport undertaking included a reference to paying such sums to the Executive, and

(*b*) section 138(2) of the Act shall have effect in relation to any other local

(a) 1955 c. 26; 1964 c. 95.

authority, and section 1(7) of the Public Service Vehicles (Travel Concessions) Act 1955 shall have effect in relation to the Executive, as if the Executive were a local authority.

(3) Any such arrangements as are referred to in paragraph (1) which are in operation immediately before the appointed day as respects the transport undertaking shall have effect on the appointed day as an agreement between the Corporation and the Executive whereby, until the 31st May 1974 or such earlier date as the Corporation and the Executive otherwise agree, the Executive are required to grant the travel concessions to the category or categories of qualified persons travelling on the Executive's public service vehicles running on the route or routes to which the said arrangements relate, and the Corporation are required to pay to the Executive in respect of the cost of those concessions the sum which would have fallen to be borne by the Corporation's burgh fund if this Order had not been made and if the Corporation had continued to defray the cost of those concessions in the same manner and on the same basis as they were defraying them during the period between the 31st May 1972 and the appointed day.

(4) Nothing in this Article shall entitle the Corporation to defray out of the burgh fund, or any other local authority to contribute to, the cost of travel concessions by the Executive to other categories of qualified persons, or as respects other routes, than those to which the arrangements of the Corporation which are referred to in paragraph (1) relate, but this paragraph shall be without prejudice to section 138(1) of the Act.

(5) In this Article the expressions "local authority", "public service vehicle", "qualified persons" and "travel concession" have the same meaning as in the application of the Travel Concessions Acts 1955 and 1964 to Scotland.

Travel concessions—Subway

14.—(1) Where immediately before the appointed day there are in operation arrangements made by the Corporation for the granting of travel concessions on the subway under section 86 of the 1964 Local Act, any such arrangements shall have effect on the appointed day as an agreement between the Corporation and the Executive whereby, until the 31st May 1974 or such earlier date as the Corporation and the Executive otherwise agree, the Executive are required to grant the travel concessions provided for in these arrangements, and the Corporation are required to pay to the Executive in respect of the cost of those concessions the sum which would have fallen to be borne by the Corporation's burgh fund if this Order had not been made and if the Corporation had continued to defray the cost of those concessions in the same manner and on the same basis as they were defraying them during the period between the 31st May 1972 and the appointed day.

(2) Neither the provisions of this Order nor any transfer by virtue of this Order, as respects the transport undertaking, shall have effect so as to deprive the Corporation on and after the appointed day of their power to defray out of the burgh fund the cost of such travel concessions as are provided for in the said section 86, and for the purpose of such travel concessions the said section 86 shall have effect on and after the appointed day as if—

(*a*) the Corporation were still operating the transport undertaking;

(*b*) any reference therein to arrangements for charging reduced fares on the subway included a reference to arrangements with the Executive for the grant by the Executive of such travel concessions; and

(*c*) the provisions under which the Corporation are authorised to make arrangements for travel concessions on the omnibuses and trolley vehicles forming part of the transport undertaking included a reference to the Travel Concessions Acts 1955 and 1964, as modified by paragraph 2 of Article 13.

Transfer of employees

15.—(1) Subject to Article 16, the transfer under Article 3 of the persons employed by the Corporation as respects the transport undertaking shall be a transfer to the service of the Executive from the service of the Corporation of all those persons who immediately before the appointed day are employed by the Corporation wholly or mainly in connection with the transport undertaking.

(2) Paragraph 2 of Schedule 4 to the Act shall not have effect in relation to the transfer of persons employed by the Corporation for which provision is made in this Article.

Determination of questions with respect to transfer of employees

16.—(1) Any question whether a person is on the appointed day wholly or mainly employed in connection with the transport undertaking shall be determined by an industrial tribunal established under Section 12 of the Industrial Training Act 1964**(a)**.

(2) References to such industrial tribunal shall be made as soon as may be after the coming into operation of this Order and in any case not later than the 30th June 1973.

(3) Where any such question as aforesaid in relation to a person is outstanding at the appointed day, that person shall not be transferred to the service of the Executive until the expiration of the second week following that in which a decision of the industrial tribunal is notified.

(4) Where by reason of the provisions of this Article a person is transferred to the service of the Executive after the appointed day, the provisions of this Order shall have effect in relation to him as if for the references to the appointed day there were substituted references to the day on which he is transferred.

Protection of interests of transferred employees

17.—(1) Every transferred employee shall, so long as he continues to be employed in that service of the Executive to which he is transferred by this Order and until he is served with a statement in writing of new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before the appointed day.

(2) The said new terms and conditions shall be such that—

(*a*) so long as the transferred employee is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day, the scale of his salary or remuneration, and

(*b*) the other terms and conditions of his employment

are not less favourable than those which he enjoyed immediately before the appointed day, and any question whether duties are reasonably comparable as aforesaid shall be determined by an industrial tribunal established under Section 12 of the Industrial Training Act 1964. The statement of new terms and conditions shall contain information that any question shall be so determined and as to the person to whom and address to which any question should be referred.

(a) 1964 c. 16.

(3) A statement of new terms and conditions of employment shall not be served in respect of any person in relation to whom a question has been referred under Article 16, until the decision of the industrial tribunal has been notified.

(4) Subject to paragraph (3), a statement of new terms and conditions may be served before the appointed day.

(5) If, after service of a statement of new terms and conditions of employment upon him, a question is referred in respect of a person under Article 16, the statement shall cease to have effect, paragraphs (1) and (2) shall have effect as if the statement had not been served, and no new statement shall be served until the decision on the question has been notified.

(6) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1963**(a)** shall not be regarded as a statement of new terms and conditions of employment for the purpose of this Article unless the statement so indicates.

(7) In this Article, "terms and conditions of employment" includes any restriction arising under any statutory provision on the termination of the employment of a person.

Superannuation

18.—(1) In this Article and in Schedule 2, unless the context otherwise requires—

"disqualifying break", in relation to the employment of a transferred employee, means a break which continues for twelve months or more or a break in the course of which the transferred employee enters the employment of a local authority;

"the employment of the Executive", in any reference to a transferred employee's continuing in such employment after the appointed day, includes the employment of the Authority and the employment of a subsidiary of the Executive, and for the purposes of any such reference in a case where employment by more than one of the following, that is to say the Executive, the Authority or any subsidiary of the Executive, is involved, the employment shall be regarded as continuing without a disqualifying break if employment by one of those bodies is followed without such a break by employment by another of those bodies;

"existing employment" and "new employment", in relation to a transferred employee, mean respectively that employment from which, and the employment to which, he is transferred by virtue of this Order;

"the superannuation fund" means the pension fund maintained by the Corporation and designated by Article 19 of the Designation Order as the fund in the benefits of which persons who are or have been employed by the Executive are entitled to participate; and

"the superannuation provisions" means the Glasgow Corporation Superannuation Scheme 1955**(b)** and any enactments and instruments for the time being in force affecting the said Scheme (including the provisions of the Local Government Superannuation (Scotland) Acts 1937 to 1953**(c)** and of any relevant instruments thereunder so far as applicable to the superannuation fund).

(2) The provisions set out in Schedule 2 shall have effect for the protection of the interests of the persons referred to therein.

(a) 1963 c. 49.
(b) Approved by S.I. 1955/1411.
(c) 1937 c. 69; 1939 c. 18; 1953 c. 25.

(3) In any case where, immediately before the appointed day, the superannuation provisions apply to a transferred employee, they shall, subject as hereinafter provided, have effect in relation to him on and after the appointed day, so long as he continues in the employment of the Executive without a disqualifying break, as if they—

(*a*) required him to make contributions at the like rate as he would have been liable to make, and conferred on him rights corresponding with those which he would have enjoyed, if he had remained in the employment of the Corporation, and

(*b*) conferred on the Executive any discretionary power to pay or to increase pensions, lump sums or gratuities to or in respect of him which was exercisable by the Corporation or, as the case may be, provided for the continuance of any such discretionary power which would have been exercisable had the transferred employee remained in the employment of the Corporation.

(4) Where at any time before the appointed day an allowance, by way of periodical payments or an annuity (not being a gratuity or allowance payable out of the superannuation fund)—

(*a*) has been granted to any person by the Corporation on his ceasing to be employed by them in connection with the transport undertaking, or

(*b*) has been granted to the widow or other dependant of a person who died while in or after leaving the employment of the Corporation in connection with the transport undertaking or during the currency of a gratuity or allowance granted to him as mentioned in (*a*) above,

payments in respect of the gratuity or allowance shall continue to be made on and after the appointed day by the Corporation in accordance with the terms of the grant and of any subsequent increase, but the Executive shall reimburse the Corporation the amount of all such payments as would, if this Order had not been made, have fallen to be debited by them in the account of the transport undertaking.

(5) Without prejudice to the last foregoing paragraph, where, if this Order had not been made, the Corporation would for the purpose of any statutory provision relating to pensions have been the employing authority or former employing authority in relation to a person who died before the appointed day while in the employment of the Corporation in connection with the transport undertaking or otherwise ceased to be employed by them in connection with the transport undertaking, or in relation to the widow or other dependant of such a person, the Executive shall be treated as being at that time the employing authority or former employing authority for those purposes in relation to that person, his widow or other dependant.

(6) Without prejudice to paragraph (4), where on the appointed day the Corporation remain liable, or after the appointed day become liable, under or in pursuance of any of the superannuation provisions to make to the superannuation fund payments which, if this Order had not been made, would have fallen to be debited by the Corporation in the account of the transport undertaking, then the Executive shall reimburse the Corporation the amount of those payments.

(7) The references in this Article and in Schedule 2 to the Local Government Superannuation (Scotland) Acts 1937 and 1953 and any relevant instruments there-

under shall be read as references to the said Acts and instruments as extended by paragraph 5(1) of Schedule 7 to the Superannuation Act 1972(a).

Books to remain evidence

19. All books and documents which, if this Order had not been made, would have been evidence in respect of any matter for or against the Corporation shall, in so far as they relate to the Corporation, be admissible in evidence on and after the appointed day in respect of the same matter for or against the Executive.

Inspection of books etc.

20. The Executive may at all reasonable times inspect, and shall at their expense be entitled to copies of, all books, accounts, records and other documents which relate to the transport undertaking and are for the time being in the possession or under the control of the Corporation.

Settlement of disputes

21. If any dispute arises in connection with the provisions of this Order between the Executive and the Corporation, and the dispute is not one which falls to be dealt with under some other provision of this Order, or (subject to Article 5) under a provision of Schedule 4 to the Act, relating to the determination of matters, questions or disputes (whether by reference to arbitration or to a tribunal or by the direction of the Secretary of State), the dispute shall be referred to the arbitration of an arbiter to be appointed by agreement between the parties or, in default of such agreement, by the President of the Law Society of Scotland.

Expenses of transfer

22. All the expenses of and incidental to the transfers to the Executive provided for in this Order shall be payable by the Executive except in so far as provision is made elsewhere in this Order for them to be borne in some other manner.

Gordon Campbell,
One of Her Majesty's Principal Secretaries of State.

St. Andrews House,
Edinburgh.
19th April 1973.

(a) 1972 c. 11.

SCHEDULE 1

INEXPEDIENT OR IMPRUDENT TRANSACTIONS

1. If it appears to the Executive that the Corporation have, at any time between the identifying date and the appointed day—

(*a*) acquired any property for the purposes of the transport undertaking, or

(*b*) entered into any contract for the purposes of the transport undertaking, or made a variation in such a contract, or

(*c*) disposed of any property, rights or liabilities which were at some time between the identifying date and the appointed day included in the transport undertaking, or

(*d*) disposed of the transport undertaking.

and that the acquisition of that property, the making of that contract or variation, or that disposal (as the case may be) was not reasonably necessary or expedient for the purposes of the transport undertaking or was an act of unreasonable imprudence on the part of the Corporation then, subject to the provisions of this Schedule, the Executive may, at any time before the 1st June 1974—

(i) in a case where property has been acquired, by notice in writing to the Corporation declare that property to be excluded from the transfer to the Executive for which provision is made in Article 5,

(ii) in a case where a contract has been entered into or varied, by notice in writing to the Corporation and to the other party to the contract disclaim that contract or variation,

(iii) in a case where there has been a disposal of property, rights or liabilities which were included in the transport undertaking, by notice in writing to the Corporation and to the person in whom it appears to the Executive that the property, rights or liabilities are then vested, declare the property, rights or liabilities in question to vest in the Executive,

(iv) in a case where there has been a disposal of the transport undertaking, by notice in writing to the Corporation and to the person in whom it appears to the Executive that the transport undertaking is then vested, declare to vest in the Executive the interests in property, rights or liabilities specified in the notice, being interests of the Corporation in property used, or rights or liabilities of the Corporation enjoyed or incurred, for or in connection with the transport undertaking at some time between the identifying date and the date of the disposal.

2.—(1) The Corporation and any other person on whom a notice under paragraph 1 has been served by the Executive may, not later than three months after the service of that notice, by notice in writing to the Executive and to all other persons (if any) on whom the Executive's notice has been served, refer the Executive's notice aforesaid to arbitration on the ground that the service of that notice was not justified having regard to all circumstances of the particular case.

(2) When a notice has been referred to arbitration under sub-paragraph (1) of this paragraph, the arbiter shall consider the matter and determine whether to confirm the notice as served, or to confirm it with modifications, or to set it aside.

3. Every notice by the Executive under paragraph 1 shall state—

(*a*) the right of the person upon whom it is served to refer it to arbitration,

(*b*) the date before which such reference must be made, and

(*c*) the names and addresses of every other person upon whom the Executive have served the notice.

4. A notice under paragraph 1 shall become final—

(*a*) in a case where it is not referred to arbitration under paragraph 2, at the end of the period stated in that paragraph for the reference of such notices, and

(*b*) in all other cases, when the arbiter confirms the notice,

and where the notice is confirmed with modifications, it shall become final and have effect as confirmed and not as originally given.

5. Where the Executive have by notice under paragraph 1 declared any property to be excluded from the transfer to the Executive for which provision is made in Article 5 then—

(*a*) if the notice becomes final before the appointed day, that property shall not vest in the Executive by virtue of the Act,

(*b*) if the notice becomes final on or after the appointed day, that property shall revest in the Corporation and the Executive shall account to the Corporation for any profits received by the Executive from that property, and the Corporation shall idemnify the Executive against any liabilities or obligations falling on the Executive in connection with that property while it is vested in the Executive (not being liabilities arising from any act or default of the Executive).

6. Where the Executive have by notice under paragraph 1 disclaimed any contract or any variation of a contract, then—

(*a*) if the notice becomes final before the appointed day, the rights and obligations of the Corporation under the contract shall—

(i) where the contract has been disclaimed, not vest in the Executive by virtue of the Act, and

(ii) where a variation of the contract has been disclaimed, vest in the Executive on the appointed day in the form in which those rights and obligations subsisted before the variation took place,

(*b*) if the notice becomes final on or after the appointed day, the rights and obligations of the Corporation under the contract shall—

(i) where the contract has been disclaimed, be deemed never to have vested in the Executive by virtue of the Act, and

(ii) where a variation of the contract has been disclaimed, be deemed to have vested in the Executive on the appointed day in the form in which those rights and obligations subsisted before the variation took place,

and in any case where the contract has been disclaimed it shall be deemed to be frustrated on the date when the notice of disclaimer becomes final and the parties thereto shall be discharged from the further performance of their obligations thereunder.

7. Where the Executive have by notice under paragraph 1 declared any property, any interests in property, or any rights or liabilities to vest in the Executive, then—

(*a*) if the notice becomes final before the appointed day, that property or those interests, rights or liabilities shall on that day vest in the Executive by virtue of the Act,

(*b*) if the notice becomes final on or after the appointed day, that property or those interests, rights or liabilities shall by virtue of the Act vest in the Executive on the date on which that notice becomes final.

8.—(1) If any person, other than the Corporation, on whom a notice under sub-paragraph (iii) or (iv) of paragraph 1 is served by the Executive, considers that he has sustained any loss by reason of that notice becoming final or that he will sustain a loss if that notice becomes final, he may, by notice in writing to the Corporation given—

(*a*) in a case where the Executive's notice is not referred to arbitration under paragraph 2, not later than three months after the end of the period stated in that paragraph, and

(*b*) in all other cases, not later than three months after the arbiter has confirmed the notice which has been referred to arbitration under paragraph 2,

claim compensation from the Corporation for that loss.

(2) Where any person gives notice of a claim under sub-paragraph (1) of this paragraph to the Corporation he shall, on the same day as he gives such notice, furnish a copy thereof to the Executive.

(3) If the Corporation dispute their liability to pay the compensation claimed or the amount thereof they may, not later than six months after the giving of the notice of claim, by counter-notice in writing to the claimant refer the claim to arbitration either as a matter to be considered concurrently with the Executive's notice (where that has been referred to arbitration) or as a separate matter, and if the arbiter is satisfied that the loss claimed has been suffered by the claimant in consequence of a disposal on the part of the Corporation which was not reasonably necessary or expedient for the purpose of the transport undertaking or was an act of unreasonable imprudence on the part of the Corporation, then the arbiter may order the Corporation to pay to the claimant such compensation as he considers just in all the circumstances, unless it appears to the arbiter that the claimant, when entering into the relevant transaction with the Corporation, had notice of the absence of such reasonable necessity or expedience or of the existence of such unreasonable imprudence (as the case may be).

9. Where provision is made in this Schedule for the reference of any matter to arbitration, the matter shall be determined by an arbiter appointed in accordance with Article 21 and an arbiter so appointed is in this Schedule referred to as "the arbiter".

10. Where under any provision of this Schedule any property, interests in property, rights or liabilities vest in the Executive, the provisions of this Order and of the Act shall apply in relation to them in the same way as if they had been transferred under Article 3 but with the substitution, in a case where the vesting takes place after the appointed day, of a reference to the date of vesting for any reference to the appointed day.

SCHEDULE 2

PROTECTION OF INTERESTS

1. Subject to the provisions of this Schedule, any of the superannuation provisions and any enactment, instrument or other document contained in or made or issued under the Local Government Superannuation (Scotland) Acts 1937 to 1953(a), the Superannuation (Miscellaneous Provisions) Act 1948(b) or Part III of the National Insurance Act 1965(c) shall have effect in relation to any transferred employee to whom it applies as if his new employment and his existing employment were one continuous employment.

2. Paragraph 1 shall not affect the operation of the Local Government Superannuation (Administration) (Scotland) Regulations 1954(d) in relation to any transferred employee.

3. Any transferred employee who immediately before the date on which he is transferred is a contributor to the superannuation fund shall continue to be a contributor to the superannuation fund in his new employment, and for that purpose every such transferred employee as aforesaid shall be deemed to be an officer or servant who has become a Passenger Transport Executive contributor within the meaning of Article 19 of the Designation Order by virtue of a resolution of the Executive under paragraph (2) of that Article.

4. Where immediately before a transferred employee is transferred by virtue of this Order it is the prevailing practice of the Corporation to exercise beneficially (that is to say, to secure the payment of gratuities, allowances, or pensions, or of increased pensions or lump sum benefits) any discretionary power exercisable by them by virtue of any statutory provision relating to pensions, it shall be the duty of the Executive in relation to that transferred employee, if he has continued in the employment of the Executive without a disqualifying break, to exercise that power (or any corresponding

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(a) 1937 c. 69; 1939 c. 18; 1953 c. 25.
(b) 1948 c. 33.
(c) 1965 c. 51.
(d) S.I. 1954/1243 (1954 II, p. 1583).

power under the statutory provisions relating to pensions for the time being in force) in a way which is not less beneficial than that practice; and Article 37 of the Glasgow Corporation Superannuation Scheme 1955 shall apply to any question arising under this paragraph.

5. Any transferred employee who is contributing to the superannuation fund immediately before the appointed day at a rate appropriate to a servant within the meaning of Article 2(1) of the Glasgow Corporation Superannuation Scheme 1955 shall continue to contribute at the like rate so long as he continues in the employment of the Executive without a disqualifying break on duties reasonably comparable with those on which he is engaged immediately before that day.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the transfer on the 1st June 1973 to the Passenger Transport Executive for the Greater Glasgow Passenger Transport Area of the Glasgow Corporation transport undertaking.

Articles 3 and 4 contain general provisions as to the transfer and as to the information to be furnished to the Executive.

The transfer to the Executive of property, rights and liabilities from the Corporation and the assumption by the Executive of certain obligations to make payments to the Corporation are provided for in Articles 5, 6 and 7.

Articles 8 to 10 and Schedule 1 relate to the carrying on of the transport undertaking pending transfer and the setting aside of inexpedient or imprudent transactions which might prejudice the transport undertaking when transferred to the Executive.

By Article 11 the Executive are placed under an obligation to make certain transitional payments to the Corporation.

Article 12 provides for the transfer to the Executive of statutory powers and duties and for the modification of statutory provisions.

Articles 13 and 14 enable the Corporation to continue to pay for certain travel concessions.

The transfer of employees, the determination of questions with respect to such transfer and the protection of interests of transferred employees are provided for in Articles 15 to 17.

Provisions as respects the superannuation of employees are contained in Article 18 and in Schedule 2.

Articles 19 to 21 deal with the books and records of the transport undertaking and the settlement of disputes by arbitration and Article 22 makes provision as to the incidence of the costs of the transfer.

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