8. The Authority shall have power to act notwithstanding a vacancy among their members.

9. The quorum of the Authority shall be such as may from time to time be determined by the Commission, and the chairman of the Authority shall have a second or casting vote. Subject as aforesaid, the Authority may regulate their own procedure.

THIRD SCHEDULE

ARTICLE 9

STATISTICS TO BE COMPILED AND PUBLISHED, AS RESPECTS EACH AREA, IN PURSUANCE OF PARAGRAPH (2) OF ARTICLE 9 OF THIS SCHEME

1. Number of passenger journeys originating.
2. Tonnage of freight train traffic originating.
3. Train miles.
4. Train miles per engine hour.
5. Engine miles.
6. Engine hours in traffic.
7. Number of loaded wagons forwarded.
8. Wagon miles.
9. Loaded wagon miles: percentage of total.
10. Wagon miles per engine hour.
11. Average wagon load at starting point.
12. Average number of wagons per train.
13. Average freight train load: in tons (Net ton miles per train mile).
14. Consumption of locomotive coal per engine mile (in lbs.).
15. Consumption of electricity by electric motor vehicles: in units per car mile.
16. Net ton miles.
17. Net ton miles per engine hour.

EXPLANATORY NOTE

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

This Order approves the British Transport Commission (Organisation) Scheme prepared and submitted to the Minister by the British Transport Commission under section 16 of the Transport Act, 1953. The Scheme is approved subject to a modification made by the Minister consisting of the insertion in Article 9 (1) of the words " after consultation with and ".

1954 No. 139

The Railway Clearing House Scheme Order, 1954

Made - - - - 4*th February*, 1954
Coming into Operation 4*th February*, 1954

Whereas the British Transport Commission have in pursuance of the provisions of section 38 of the Transport Act, 1947(**a**), prepared and submitted to the Minister of Transport and Civil Aviation (hereinafter referred to as " the Minister ") a scheme as to the property, rights, powers and liabilities of the Railway Clearing House;

(**a**) 10 & 11 Geo. 6. c. 49.

And whereas the said scheme has been embodied in the draft of an Order prepared by the Minister in relation to which the provisions of the Eighth Schedule to the Act have been complied with;

And whereas no objections to the said draft Order which the Minister was required to consider, were made;

And whereas it is expedient that effect should be given to the said scheme as embodied in the said draft Order subject to certain modifications which in the opinion of the Minister do not effect important alterations in the draft as published;

Now, therefore, the Minister in exercise of his powers under the said section 38 and of all other powers him enabling in that behalf hereby makes the following Order:—

1. The scheme set out in the Schedule to this Order shall take effect on the 18th day of February, 1954.

2. The Interpretation Act, 1889(**a**), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. This Order may be cited as "The Railway Clearing House Scheme Order, 1954".

Given under the Official Seal of the Minister of Transport and Civil Aviation this fourth day of February, 1954.

(L.S.)

Alan Lennox-Boyd,
The Minister of Transport and Civil Aviation.

SCHEDULE

RAILWAY CLEARING HOUSE SCHEME

ARRANGEMENT OF CLAUSES

Marginal Note

Clause No.

PART I.—PRELIMINARY

1. Short title.
2. Interpretation.

PART II.—TRANSFER OF CLEARING HOUSE UNDERTAKING

3. Transfer of Clearing House undertaking.
4. General effect of transfer of Clearing House undertaking.
5. Special provisions as to pensions.

PART III.—COUNCIL OF THE FUND

6. Constitution of Council.
7. Transfer of certain rights, powers and liabilities to Council.

PART IV.—GENERAL

8. Dissolution of Clearing House.
9. Repeals.
10. General savings from effect of repeals.
11. Amendment to Railways Act, 1921, S. 77.
12. Marginal notes and headings not part of Scheme.

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

SCHEDULES

First Schedule—Provisions as to the Council of the Fund.

Second Schedule—Provisions of the Fund Acts and the Rules in which references to the Council are to be substituted for references to the Clearing House.

Third Schedule—Statutory provisions repealed by this Scheme.

RAILWAY CLEARING HOUSE SCHEME

PART I.—PRELIMINARY

Short Title

1. This Scheme may be cited as the Railway Clearing House Scheme, 1954.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires, expressions to which meanings are assigned by the Transport Act, 1947, have the same respective meanings, and—

"the Clearing House" means the Railway Clearing House incorporated by the Railway Clearing Committee Incorporation Act, 1897(a);

"the Commission" means the British Transport Commission and any reference to the Commission in relation to any functions of the Commission which are for the time being delegated to an Executive in pursuance of Section 5 of the Transport Act, 1947, shall be construed as a reference to that Executive;

"the Corporation" means the Railway Clearing System Superannuation Fund Corporation constituted by Section 2 of the Railway Clearing System Superannuation Fund Incorporation Act, 1897(b);

"the Council" means the Council constituted by this Scheme;

"the date of transfer" means the Monday immediately following the expiration of a period of 3 months from the date on which this Scheme takes effect;

"the Fund" means the Railway Clearing System Superannuation Fund;

"the Fund Acts" means the Railway Clearing System Superannuation Fund Acts, 1873 to 1948;

"Irish Contributing Bodies" means the County Donegal Railways Joint Committee, the Great Northern Railway Board, the clearing house committee mentioned in the Clearing Act (Ireland), 1860(c), and the Ulster Transport Authority;

"a member of the Clearing House" means a delegate appointed in accordance with the provisions of the Railway Clearing House Scheme, 1922(d);

"the Minister" means the Minister of Transport and Civil Aviation;

"the Rules" means the Rules of the Fund;

"the special provisions" means such of the provisions of the Fund Acts and the Rules as are specified in the Second Schedule to this Scheme.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

(3) Any reference in this Scheme to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment.

(a) 60 & 61 Vict. c. cxvi. (b) 60 & 61 Vict. c. cxx. (c) 23 & 24 Vict. c. xxix.
(d) S.R. & O. 1922/1443 (Rev. XIX, p. 1: 1922, p. 900).

PART II.—TRANSFER OF CLEARING HOUSE UNDERTAKING

Transfer of Clearing House undertaking

3. Subject to the provisions of this Scheme, all the property of the Clearing House immediately before the date of transfer shall on that date vest in the Commission and, as from the date of transfer, the Commission shall have all the rights and powers and be subject to all the liabilities (other than the rights, powers and liabilities specified in Clause 7 of this Scheme) which the Clearing House had or to which the Clearing House were subject immediately before the date of transfer.

General effect of transfer of Clearing House undertaking

4.—(1) Subject to the provisions of this Scheme, every agreement to which the Clearing House were a party, whether in writing or not and whether or not of such nature that rights and liabilities thereunder could be assigned by the Clearing House, shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this subclause, have effect as from the date of transfer as if—

(*a*) the Commission had been a party to the agreement ; and

(*b*) for any reference (however worded and whether express or implied) to the Clearing House, there were substituted, as respects anything falling to be done on or after the date of transfer, a reference to the Commission ; and

(*c*) any reference (however worded and whether express or implied) to, or to any part of, or to any sum determined by reference to, any profits or receipts of the undertaking of the Clearing House, were, as respects profits or receipts arising on or after the date of transfer, a reference to, or to the corresponding part of, or to a sum similarly determined by reference to, an estimate of what those profits or receipts would have been but for the transfer ; and

(*d*) any reference (however worded and whether express or implied) to the members or any member of the Clearing House were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint ; and

(*e*) any reference (however worded and whether express or implied) to any officer or servant of the Clearing House were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint or, in default of appointment, to the officer or servant of the Commission who corresponds as nearly as may be to the first mentioned officer or servant ; and

(*f*) in the case of an agreement for the rendering of personal services to the Clearing House, the services to which the agreement relates were, on and after the date of transfer, any reasonably comparable services under the Commission, to be selected by the Commission ; and

(*g*) save as provided by the four last preceding paragraphs, any reference (however worded and whether express or implied) to the undertaking of the Clearing House were, as respects the period beginning with the date of transfer, a reference to so much of the undertaking of the Commission as corresponds to the undertaking of the Clearing House:

Provided that any agreement to which the Clearing House were a party which cannot have effect as modified in the manner provided by this sub-clause by reason only that, if it were so modified, no person other than the Commission would have rights or liabilities thereunder shall cease to have effect as respects anything falling to be done on or after the date of transfer.

(2) The provisions of the last preceding subclause (except paragraphs (*a*) and (*f*) thereof) shall apply in relation to any statutory provision (other than the statutory provisions repealed by this Scheme), any provision of any agreement to which the Clearing House were not a party, and any provision of any other document not being an agreement, as they apply in relation to an agreement to which the Clearing House were a party, and, in relation to any such statutory or other provision as aforesaid, the references in paragraphs (*b*), (*c*), (*d*), (*e*), and (*g*) of that subclause to the Clearing House, to any profits or receipts of the undertaking of the Clearing House, to any members, officers or servants of the Clearing House, and to the undertaking of the Clearing House include references made by means of a general reference to a class of persons of which the Clearing House are one, without the Clearing House being specifically referred to:

Provided that—

(*a*) nothing in the last preceding subclause shall apply in relation to the special provisions or to any provision of any agreement or other document to which subclause (2) of Clause 7 of this Scheme applies;

(*b*) any reference in the Rules to the premises of the Clearing House shall, as respects anything falling to be done on or after the date of transfer, be construed as a reference to such place as the Council may from time to time appoint.

(3) Without prejudice to the generality of the preceding provisions of this clause, where, by the operation of any of the said provisions, any right or liability becomes a right or liability of the Commission, the Commission and all other persons shall, as from the date of transfer, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right or liability as they would have had if it had at all times been a right or liability of the Commission, and any legal proceedings or applications to any authority pending on the date of transfer by or against the Clearing House, in so far as they relate to any property, right or liability transferred to the Commission under this clause, or to any agreement, statutory provision or document which has effect in accordance with subclause (1) or subclause (2) of this clause, shall be continued by or against the Commission to the exclusion of the Clearing House.

(4) Where any property or rights vest in or are transferred to the Commission under Clause 3 of this Scheme or would so vest or be so transferred but for the fact that transfers thereof are governed otherwise than by the law of any part of Great Britain, the Clearing House shall comply with such directions as may be given to them by the Commission for the purpose of securing that the ownership of the property or, as the case may be, that the right, is effectively transferred to the Commission.

Special provisions as to pensions

5.—(1) The provisions of this Scheme which direct that liabilities of the Clearing House shall become, as from the date of transfer, liabilities of the Commission shall apply in relation to customary obligations of the Clearing House in relation to pensions of officers or servants employed by the Clearing House notwithstanding that the Clearing House were under no legal obligation in respect of those pensions; and if any question arises as to the existence or extent of any such customary obligation, the question shall, in default of agreement, be referred for determination to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State, and the decision of that referee or board shall be final and the Commission shall give effect to that decision.

(2) The Minister of Labour and National Service may, with the consent of the Treasury, pay, out of monies provided by Parliament,—

(*a*) to any referee or to the members of any board of referees appointed by him under subclause (1) of this clause such fees and allowances as he may with the consent of the Treasury determine ; and

(*b*) to persons giving evidence before any such referees or board such allowances as he may with the consent of the Treasury determine.

(3) Nothing in the Arbitration Act, 1950(**a**), shall be construed as applying to any proceedings before a referee or board of referees appointed under subclause (1) of this clause by the Minister of Labour and National Service.

PART III.—COUNCIL OF THE FUND

Constitution of Council

6. There shall be a body to be called the Council of the Railway Clearing System Superannuation Fund which shall be a body corporate with perpetual succession and a common seal, and the provisions of the First Schedule to this Scheme shall have effect with respect to the membership of, and otherwise in relation to, the Council.

Transfer of certain rights, powers and liabilities to Council

7.—(1) As from the date of transfer, the Council shall, to the exclusion of the Clearing House and any other body, have all rights and powers and be subject to all liabilities which the Clearing House had or to which the Clearing House were subject, immediately before the date of transfer, under or by virtue of the special provisions.

(2) Subject to the provisions of this Scheme, the special provisions, and so much of the provisions of any agreement, or of any other document not being an agreement as relates or refers to any right, power or liability of the Clearing House to which the last preceding subclause applies shall, unless the terms or subject matter thereof make it impossible that the same should have effect as modified in the manner provided in this subclause, have effect as from the date of transfer as if—

(*a*) for any reference (however worded and whether express or implied) to the Clearing House there were substituted, as respects anything falling to be done on or after the date of transfer, a reference to the Council ; and

(*b*) any reference (however worded and whether express or implied) to the members or any member of the Clearing House were, as respects anything falling to be done on or after the date of transfer, a reference to the members of the Council or to such person as the Council may appoint.

PART IV.—GENERAL

Dissolution of Clearing House

8. Where the Clearing House have complied with any directions given to them by the Commission for the purpose of securing that the ownership of any property or any right is effectively transferred to the Commission and ascertained that the Commission do not desire to give them any further such directions, the Clearing House shall notify the Minister ; and if the Minister is satisfied (whether any such notice has been given by the Clearing House or not) that any directions given as aforesaid have been complied with and that the Commission do not desire to give any further such directions, the Minister shall give a certificate that there is no reason for the continued existence of the Clearing House, and shall cause the certificate to be published in the London, Edinburgh and Belfast Gazettes, and upon the publication thereof the Clearing House shall be dissolved.

(**a**) 14 Geo. 6. c. 27.

Repeals

9. The statutory provisions specified in the Third Schedule to this Scheme are repealed as from the date of transfer to the extent specified in the third column of the said Schedule:

Provided that, during the period beginning with the date of transfer and ending with the dissolution of the Clearing House, the said repeal shall not take effect in relation to the Clearing House so far as the powers conferred by the said provisions are required for the remaining purposes of the Clearing House.

General savings from effect of repeals

10. Notwithstanding the repeal of any statutory provision effected by this Scheme, and except only as is by this Scheme otherwise expressly provided, everything done or suffered under or by virtue of the repealed provision before the date on which such repeal takes effect shall be as valid as if such provision had not been repealed, and the repeal thereof and this Scheme respectively shall accordingly be subject and without prejudice to everything so done or suffered, and to all rights, liabilities, debts, claims and demands, both present and future, which, if such provision were not repealed, would be incident to or consequent on any and every such thing so done or suffered.

Amendment to Railways Act, 1921, s. 77

11. As from the date of transfer, for subsection (1) of Section 77 (Accounts, returns and statistics) of the Railways Act, 1921(a), there shall be substituted the following subsection—

"(1) The accounts to be rendered under the Railway Companies (Accounts and Returns) Act, 1911, shall be compiled in such manner as may be determined by the Minister".

Marginal notes and headings not part of Scheme

12. The marginal notes to this Scheme and the headings to the Parts of this Scheme have been added for convenience of reference only and shall not be read as forming part of this Scheme.

SCHEDULES

First Schedule

Provisions as to the Council of the Fund

1. The Council shall consist of six members appointed as follows:—

(1) Five members shall be appointed by the Commission.

(2) One member shall be appointed by the Irish Contributing Bodies:

Provided always that the proportions in which the said six members of the Council are to be appointed by the Commission and the Irish Contributing Bodies respectively may from time to time be varied by agreement between the Commission and the Irish Contributing Bodies.

2. The first members of the Council shall hold office from the date of transfer until the next ensuing Annual General Meeting of the Corporation and thereafter members of the Council shall be appointed annually at the date of the Annual General Meeting of the Corporation and shall hold office until the next Annual General Meeting of the Corporation.

3. Any member of the Council shall, on ceasing to be such a member, be eligible for re-appointment.

4. Any vacancy in the Council occurring otherwise than by expiration of term of office shall be filled by the appointment of a new member of the Council by the body who appointed the person who has so ceased to be a member and such new member shall hold office until the next Annual General Meeting of the Corporation.

5. The Council may act notwithstanding any vacancy among the members thereof and the quorum, procedure and place of meeting of the Council shall be such as the Council may determine.

(a) 11 & 12 Geo. 5. c. 55.

6. The Council shall appoint its own Chairman and Secretary.

7. Every document purporting to be an instrument issued or sealed by the Council shall be authenticated by the Secretary of the Council or some other person authorised in that behalf by the Council.

SECOND SCHEDULE

Provisions of the Fund Acts and the Rules in which references to the Council are to be substituted for references to the Clearing House

The Railway Clearing System Superannuation Fund Association Act, 1873(a)—Sections 4, 11, 13 and 20.

The Railway Clearing System Superannuation Fund Incorporation Act, 1897—Sections 2, 6 and 8.

The following General Rules made pursuant to the Railway Clearing System Superannuation Fund Association Act, 1873, that is to say, Rules 22A, 25 (except so much of that rule as refers to contributing members in the service of the Clearing House), 30, 32, 35, 40, 44 and 45.

Rule 6 of the Supplemental Rules made pursuant to the Railway Clearing System Superannuation Fund Association Act, 1873.

THIRD SCHEDULE

Statutory provisions repealed by this Scheme

Session and Chapter	Short Title	Extent of Repeal
13 & 14 Vict. c. xxxiii.	Railway Clearing Act, 1850 ...	The whole Act.
37 & 38 Vict. c. xvi.	Railway Clearing House Extension Act, 1874.	The whole Act.
60 & 61 Vict. c. cxvi.	Railway Clearing Committee Incorporation Act, 1897.	The whole Act.
11 & 12 Geo. 5. c. 55.	Railways Act, 1921	Subsections (1), (2) and (3) of Section 14.
—	Railway Clearing House Scheme, 1922.	The whole Scheme.

EXPLANATORY NOTE

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

Section 38 of the Transport Act, 1947, provides for the preparation and submission by the British Transport Commission to the Minister of Transport and Civil Aviation of a scheme as to the property, rights, powers and liabilities of the Railway Clearing House and subsection (2) of the section provides that a scheme shall not have effect until embodied in an Order made by the Minister. This Order embodies and gives effect to a scheme so prepared and submitted for the dissolution of the Railway Clearing House and, save for the Railway Clearing System Superannuation Fund, the transfer of its property, rights, powers and liabilities to the Commission.

The rights and powers of the Clearing House in the management of the said Fund are transferred to the Council of the Railway Clearing System Superannuation Fund, a body constituted under the Order.

(a) 36 & 37 Vict. c. lxxxviii.