1952 No. 1612

The Transferred Undertakings (Pensions of Employees) (No. 2) Regulations, 1952

Made - - - -	*1st September*, 1952
Laid before Parliament	*3rd September*, 1952
Coming into Operation	*15th September*, 1952

The Minister of Transport in exercise of the powers conferred upon him by Section 98 of the Transport Act, 1947(a), and of all other powers him enabling in that behalf hereby makes the following Regulations:—

Commencement, Citation, Interpretation and Repeal

1.—(1) These Regulations shall come into operation on the fifteenth day of September, 1952, and shall have effect as from the 1st January, 1948.

(2) These Regulations may be cited as "The Transferred Undertakings (Pensions of Employees) (No. 2) Regulations, 1952".

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

"the Act" means the Transport Act, 1947:

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

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

"the Commission" means the British Transport Commission:

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

"funded scheme" means a scheme, not being an insurance scheme, which immediately before the date of any relevant event relates in whole or in part to providing pensions to or in respect of officers or servants employed in an undertaking or part of an undertaking which is transferred to the Commission in the relevant manner, such pensions being payable out of a fund held by any person for the purposes of the scheme:

"general scheme" has the meaning assigned to it by paragraph (1) of Regulation 14 of these Regulations:

"insurance scheme" means a scheme which immediately before the date of any relevant event relates exclusively or in part to providing pensions to or in respect of officers or servants employed in an undertaking or part of an undertaking which is transferred to the Commission in the relevant manner, such pensions being provided for by means of contracts or policies made or effected with an insurance company carrying on life assurance business within the meaning of the Assurance Companies Acts, 1909 to 1946(b) (including contracts or policies made or effected with

(a) 10 & 11 Geo. 6. c. 49. (b) 9 Edw. 7. c. 49 and 9 & 10 Geo. 6. c. 28.

such a company for the purpose of implementing any form of private superannuation fund), and the expressions "exclusive insurance scheme" and "non-exclusive insurance scheme" mean respectively an insurance scheme which relates exclusively and in part to providing pensions to or in respect of such officers or servants:

Provided that a scheme shall be deemed to be an exclusive insurance scheme notwithstanding that pensions are payable under the scheme to or in respect of any person, if the payment of the pensions has commenced before the date of the coming into operation of these Regulations:

"licence" means an "A" licence or a "B" licence granted under the Road and Rail Traffic Act, 1933(a), or a corresponding defence permit issued under Regulation 72 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945(b), as extended by the Supplies and Services (Extended Purposes) Act, 1947(c), and the Supplies and Services (Defence Purposes) Act, 1951(d), and continued in force by the Supplies and Services (Continuance) Order, 1951(e):

"the Minister" means the Minister of Transport:

"normal pensionable age" means 65 years for males and 60 years for females:

"notice of acquisition" means a notice of acquisition given under Part III of the Act:

"officer or servant" means a person—

(i) employed as an officer or servant by a person whose undertaking or part of whose undertaking is transferred to the Commission in the relevant manner, such employment being in whole time service in connection with the activities of the undertaking or part of the undertaking which is so transferred; or

(ii) employed as an officer or servant by the Commission (whether or not the employment is by virtue of the Act to be treated as employment by an Executive) who became so employed immediately upon ceasing to be employed as specified in paragraph (i):

"relevant event" means the transfer to the Commission of an undertaking or part of an undertaking effected in the relevant manner:

"relevant manner", in relation to the transfer of an undertaking or part of an undertaking to the Commission means the giving of a notice of acquisition, or in the case of an undertaking or part of an undertaking the activities of which consist wholly or mainly of the operation of vehicles authorised to be used under a licence, the making of an agreement:

"the transferor" in relation to an undertaking or part of an undertaking which is transferred to the Commission means the person carrying on the undertaking:

"tribunal" means a referee or board of referees appointed by the Minister of Labour and National Service after consultation with the Lord

(a) 23 & 24 Geo. 5. c. 53. (b) 9 & 10 Geo. 6. c. 10. (c) 10 & 11 Geo. 6. c. 55.
(d) 14 & 15 Geo. 6. c. 25. (e) S.I. 1951/2116; 1951 III, p. 27.

Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State:

"whole time service" means employment to which the employee is required to devote on the average not less than 30 hours per week during which he is not at liberty to undertake other work in consideration of a fee or other remuneration.

(4) In relation to an officer or servant who immediately before the date of the relevant event was employed as an officer or servant by a person whose undertaking or part of whose undertaking is transferred to the Commission in the relevant manner and had the right or the expectation under customary practice of continuing in that employment beyond the normal pensionable age, these Regulations shall have effect as though references therein to "normal pensionable age" were references to the minimum age at which the officer or servant could have been required to retire if he had not lost employment as an officer or servant in consequence of the relevant event, or, if there is no such age, his actual age at the time when he could have been required to retire if he had not lost his employment as aforesaid.

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

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

(*b*) if his scheme is a funded scheme or a general scheme or the officer or servant is a person to whom the provisions of Regulation 3 of these Regulations apply, and the scheme or the provision made under the said Regulation, as the case may be, is a scheme or provision under which the pension rights are related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated at such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable service as would have been applicable under that scheme or provision in the calculation of the pension, if he had at the date when he loses his employment as an officer or servant reached normal pensionable age, or as the case may be, had the other contingency then happened, and there had been no requirement of the scheme or provision as to a minimum qualifying period of service; or

(*c*) if his scheme is a funded scheme, or a general scheme or the officer or servant is a person to whom the provisions of Regulation 3 of these Regulations apply, and the scheme or the provision made under the said regulation, as the case may be, is a scheme or provision under which the pension rights are not related by some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated on reaching normal pensionable age, or as the case may be, on the happening of the other contingency, as follows:—

(i) on reaching normal pensionable age, the pension which would have been payable under the scheme or provision had he continued to

be a participant in the scheme or provision until that age without increase of emoluments, but reduced in the proportion which the number of years of pensionable service under the scheme or provision before he loses his employment as an officer or servant bears to the number of years of pensionable service which he would have rendered had he continued to be a participant in the scheme or provision until normal pensionable age ; or

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

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

(6) Notwithstanding anything to the contrary in any scheme to which these Regulations apply or any statutory provision relating thereto or any trust deeds, rules or other instruments made for the purposes thereof or in any of these Regulations, any increase of pension rights given in connection with any provision made by the Act or in anticipation of the making of any such provision otherwise than in the ordinary course shall be disregarded for any of the purposes of these Regulations.

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

(8) The Transferred Undertakings (Pensions of Employees) Regulations, 1951(**b**), shall cease to have effect as from the 15th September, 1952, without prejudice, however, to their operation in respect of any period before that date.

Funded Schemes

2.—(1) This Regulation and the six next succeeding Regulations shall apply in relation to every funded scheme.

(2) In respect of any participant in a funded scheme who becomes employed as an officer or servant by the Commission in consequence of the relevant event, the person in whom any funds held for the purposes of the scheme are vested shall, subject to the provisions of paragraph (1) of Regulation 8 of these Regulations, transfer to the Commission—

(*a*) a sum which equals in amount either—

(i) the transfer value at the date of the relevant event of his pension rights as defined for the purposes of the scheme ; or

(ii) in the absence of such a definition, the estimated capital value at that date of his pension rights, being such proportion of all prospective benefits payable to or in respect of him as is attributable to service rendered before that date in respect of which there was a contingent liability on the fund immediately before that date, regard being had to the liability to pay any minimum pension in accordance with the provisions of the scheme and to the degree of solvency of the fund ;

(**a**) 52 & 53 Vict. c. 63. (**b**) S.I. 1951/1952; 1951 II, p. 3.

with compound interest thereon from the date of the relevant event until the date on which the sum is transferred to the Commission:

(*b*) all sums received by them after the date of the relevant event and before the date on which these Regulations come into operation by way of contributions payable by or in respect of him with compound interest thereon from the date of receipt thereof until the date on which the sums so received are transferred to the Commission;

and upon such sums being transferred, the Commission shall indemnify the persons in whom the said fund is vested against any liability for the payment of income tax in respect of any sum so transferred, and without prejudice to their liability under the preceding provisions of this paragraph as from the date of the relevant event the persons administering the scheme, and the persons in whom the said fund is vested, shall be discharged from all liability under the scheme to or in respect of the participant concerned or to any other person by reason of the transfer.

(3) Any reference in paragraph (2) of this Regulation to compound interest shall be construed as a reference to compound interest at the same interest rate and with the same rests as were applied for the purposes of calculating the transfer value or, as the case may be, the estimated capital value of the pension rights referred to in sub-paragraph (*a*) of that paragraph.

(4) The sums to be transferred to the Commission under the provisions of paragraph (2) of this Regulation shall be transferred—

(*a*) where periodical actuarial valuations of the fund are made, within six months of the completion of the next periodical actuarial valuation thereof if made within five years of the date of the coming into operation of these Regulations or within five years of the date of the relevant event whichever is the later or, if the next such valuation is not due to be made within the said period of five years, within five years after the date on which these Regulations come into operation or within five years after the date of the relevant event, whichever is the later;

(*b*) where periodical actuarial valuations of the fund are not made, within six months after the date of the relevant event or within six months after the date on which these Regulations come into operation whichever is the later.

(5) The sum referred to in sub-paragraph (*a*) (ii) of paragraph (2) of this Regulation shall be determined by agreement between an actuary appointed by the Commission and an actuary appointed by the persons administering the scheme, or in default of such agreement, by an actuary appointed by the President of the Institute of Actuaries or the President of the Faculty of Actuaries in Scotland. The fees for any actuary appointed for the purposes of this paragraph shall be defrayed by the Commission.

3.—(1) Every participant in a funded scheme who becomes employed as an officer or servant by the Commission in consequence of the relevant event and every person employed on probationary service as an officer or servant whose conditions of service were such as to entitle or require him on completion of his period of probationary service to become such a participant who becomes so employed, shall subject to the provisions of Regulation 8 of these Regulations, be accorded by the Commission pension rights the same as or not less advantageous than those accorded by his scheme and subject to similar conditions as to the payment of contributions and otherwise and the Commission shall have similar rights respecting the variation of the terms and conditions affecting pension rights as were had at the date of the relevant event by any person:

Provided that the Commission may allow any such participant in a funded scheme whose emoluments are diminshed in consequence of the relevant event, the cause of such diminution having arisen not later than ten years after the relevant event (without prejudice to any other power he may have in that behalf) to continue his contributions and to have contributions paid in respect of him by reference to the amount of his emoluments immediately before the date of the relevant event.

(2) Nothing in the preceding provisions of this Regulation shall be taken to require the Commission to establish or administer a pension fund for the purpose of providing pensions under this Regulation.

4.—(1) Subject to the provisions of Regulation 8 of these Regulations, there shall be paid to or in respect of a participant in a funded scheme, being such a participant or person employed on probationary service as is referred to in the last preceding Regulation, who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen not later than ten years after the relevant event—

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

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

(*c*) at the option of the officer or servant in any case where provision was made in the scheme entitling a person on ceasing to be a participant therein to receive a payment by way of a return of contributions and interest paid by him with or without interest thereon, a lump sum equal in amount to the total contributions and interest paid by him under the scheme or to the Commission with or without interest thereon as may have been provided in the scheme ; or

(*d*) at the option of the officer or servant in any case where provision was made in the scheme enabling a proportion of his pension rights to be compounded, a lump sum equal in amount to the estimated capital value of that proportion of his accrued pension rights at the date when the option is exercised as determined by an actuary appointed by the Commission, reduced by an amount equal to any sum which the persons in whom the fund held for the purposes of the scheme is vested and the Commission or either of them may become liable to pay by way of income tax in consequence of the exercise of the option:

Provided that the provisions of sub-paragraphs (*b*), (*c*) or (*d*) of this paragraph, as the case may be, shall not apply in any case where the option is not exercised within six months after the date upon which the officer or servant loses his employment as an officer or servant or within six months after the date on which these Regulations come into operation, whichever is the later.

(2) Except as aforesaid, the Commission shall be under no liability to or in respect of the officer or servant concerned by reason of any rights under or arising out of the pension rights to be accorded to him under paragraph 1 of Regulation 3 of these Regulations.

5.—(1) In respect of any participant in a funded scheme in relation to whom the provisions of the last preceding Regulation do not apply, who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen not later than ten years after the relevant event, the Commission may, not later than three months after the date upon which he so loses his employment or three months after the date on which these Regulations come into operation, whichever is the later make such arrangements with the persons administering the scheme as shall ensure to him, subject to the provisions of Regulation 8 of these Regulations, his accrued pension rights. Any arrangements made under this paragraph may be determined by the Commission at any time upon giving to the persons administering the scheme three months' previous notice in writing.

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

6.—(1) If in the case of any participant in a funded scheme, in respect of whom the Commission are authorised to make such arrangements as are referred to in the last preceding Regulation, no such arrangements are made, or, if made, have been duly determined, the persons in whom any funds held for the purposes of the scheme are vested shall transfer to the Commission a sum which, subject to the provisions of paragraph (1) of Regulation 8 of these Regulations, equals in amount either—

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

(*b*) in the absence of such a definition, the estimated capital value at that date of his pension rights, being such proportion of all prospective benefits payable to or in respect of him as is attributable to service rendered before that date in respect of which there was contingent liability on the fund immediately before that date, regard being had to the liability to pay any minimum pension in accordance with the provisions of the scheme and to the degree of solvency of the fund;

with compound interest from the date when he loses his employment or the date on which the arrangement is determined, as the case may be, until such sum is transferred to the Commission and upon such sum being transferred, the Commission shall indemnify the persons in whom the said fund is vested against any liability for the payment of income tax in respect of the sum so transferred to the Commission, and without prejudice to their liability under any arrangements made in accordance with Regulation 5 of these Regulations or under the preceding provisions of this Regulation, as from

the date on which the participant loses his employment, the persons administering the scheme, and the persons in whom the said fund is vested, shall be discharged from all liability under the scheme to or in respect of the participant concerned or to any other person by reason of the transfer.

(2) The reference in paragraph (1) of this Regulation to compound interest shall be construed as a reference to compound interest at the same interest rate and with the same rests as were applied for the purposes of calculating the transfer value or, as the case may be, the estimated capital value of the pension rights referred to in that paragraph.

(3) The sum to be transferred to the Commission under the provisions of paragraph (1) of this Regulation shall be transferred—

(*a*) where periodical actuarial valuations of the fund are made, within six months of the completion of the next periodical actuarial valuation thereof if made within five years of the date of the coming into operation of these Regulations or within five years of the date when the participant loses his employment whichever is the later or, if the next such valuation is not due to be made within the said period of five years, within five years after the date when the participant loses his employment or within five years after the date on which these Regulations come into operation whichever is the later ;

(*b*) where periodical actuarial valuations of the fund are not made, within six months after the date when the participant loses his employment or within six months after the date on which these Regulations come into operation, whichever is the later.

(4) The sum referred to in sub-paragraph (*b*) of paragraph (1) of this Regulation shall be determined by agreement between an actuary appointed by the Commission and an actuary appointed by the persons administering the scheme, or in default of such agreement, by an actuary appointed by the President of the Institute of Actuaries or the President of the Faculty of Actuaries in Scotland. The fees of any actuary appointed for the purposes of this paragraph shall be defrayed by the Commission.

7.—(1) Subject to the provisions of Regulation 8 of these Regulations, the Commission shall pay to or in respect of every officer or servant in whose case the persons in whom any funds held for the purposes of the scheme are vested are under the last preceding Regulation liable to transfer to the Commission any sum—

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

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

(*c*) at the option of the officer or servant in any case where provision was made in the scheme entitling a person on ceasing to be a participant therein to receive a payment by way of a return of contributions and

interest paid by him with or without interest thereon, a lump sum equal in amount to the total contributions and interest paid by him under the scheme with or without interest thereon as may be provided in the scheme;

(*d*) at the option of the officer or servant in any case where provision was made in the scheme enabling a proportion of his pension rights to be compounded, a lump sum equal in amount to the estimated capital value of that proportion of his accrued pension rights at the date when the option is exercised, as determined by an actuary appointed by the Commission, reduced by an amount equal to any sum which the persons in whom the fund held for the purposes of that scheme is vested may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value or estimated capital value:

Provided that—

(i) the provisions of sub-paragraph (*b*), (*c*) or (*d*) of this paragraph, as the case may be, shall not apply in any case where the option is not exercised within six months after the date upon which the officer or servant loses his employment as an officer or servant or within six months after the date on which these Regulations come into operation, whichever is the later;

(ii) for the purpose of this paragraph, the expression "accrued pension rights" excludes any pension payable during the period that any such arrangement as is referred to in paragraph (1) of Regulation 5 of these Regulations is in force.

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

8.—(1) Where a participant in a funded scheme has received after the date of the relevant event and before the date on which these Regulations come into operation, any payment under the scheme by way of a return of contributions and interest paid by him, with or without interest thereon (hereinafter in this Regulation referred to as "the refund")—

(*a*) the sum to be transferred in accordance with paragraph (2) of Regulation 2 or, as the case may be, paragraph (1) of Regulation 6 of these Regulations shall be reduced by the amount of the refund;

(*b*) the pension payable to or in respect of him under the pension rights to be accorded to him in accordance with paragraph (1) of Regulation 3 of these Regulations or, as the case may be, the accrued pension rights payable to or in respect of him in accordance with sub-paragraph (*a*) of paragraph (1) of Regulation 4 of these Regulations shall, so far as they are attributable to his employment as an officer or servant before the date of the relevant event, be reduced by reason of the refund in the proportion which the amount of the refund bears to the sum to be transferred to the Commission under sub-paragraph (*a*) of paragraph 2 of Regulation 2 of these Regulations;

(*c*) the accrued pension rights payable to or in respect of him in accordance with sub-paragraph (*a*) of paragraph (1) of Regulation 7 of these Regulations shall be reduced by reason of the refund in the proportion which the amount of the refund bears to the sum to be transferred to the Commission under Regulation 6 of these Regulations;

(*d*) any lump sum to be paid to him in accordance with sub-paragraphs (*b*), (*c*) or (*d*) of paragraph (1) of Regulation 4 or, as the case may be, sub-paragraphs (*b*), (*c*) or (*d*) of paragraph (1) of Regulation 7 of these Regulations shall be reduced by the amount of the refund;

(*e*) the accrued pension rights to be ensured to an officer or servant in accordance with paragraph (1) of Regulation 5 of these Regulations shall be reduced by reason of the refund in such manner as may be provided by the arrangement made under that paragraph.

Provided that—

(i) this paragraph shall not apply if the participant concerned shall within three months after the date on which these Regulations come into operation pay to the persons administering the scheme the amount of the refund received by him;

(ii) sub-paragraphs (*b*), (*c*) and (*d*) of this paragraph shall not apply if the participant concerned shall within three months of the said date pay to the Commission the amount of the refund received by him or, if the participant concerned shall within the said period of three months make arrangements with the Commission to pay to them the amount of the refund received by him by instalments, the said sub-paragraphs shall apply and have effect as if the references therein to the refund were references to the aggregate amount of the instalments outstanding and unpaid at the date on which the pension, accrued pension rights or lump sum, as the case may be, becomes payable to or in respect of the applicant.

(2) Where provision was made in any funded scheme for the payment or transfer of benefits to some person other than the participant concerned the Commission or, as the case may be, the persons administering the scheme, shall, subject to the same conditions, if any, as govern such payment or transfer in that scheme, afford the officer or servant concerned facilities as near as may be to those contained in the scheme for the similar payment or transfer of benefits comprised in his accrued pension rights.

Exclusive Insurance Schemes

9. Every exclusive insurance scheme and all trust deeds, rules and other instruments made for the purposes thereof shall continue subject to the modifications thereof provided for in these Regulations.

10.—(1) Every exclusive insurance scheme and every statutory provision relating thereto and all trust deeds, rules and other instruments made for the purposes thereof shall have effect as from the date of the relevant event, as though any reference therein (however worded and whether express or implied) to employment by the transferor of an undertaking or part of an undertaking were, as respects employment as from the date of the relevant event, a reference to employment by the Commission, and the rights and obligations relating to participation in the scheme and in any fund held for the purposes thereof and to the payment of premiums or contributions by employer and employee shall be construed accordingly.

(2) Subject to the preceding provisions of this Regulation, every exclusive insurance scheme and every statutory provision relating thereto and all trust deeds, rules and other instruments made for the purposes thereof shall have effect as from the date of the coming into operation of these Regulations as though, where the transferor of an undertaking or part of an undertaking is a party thereto, the Commission had been a party thereto,

and any reference therein (however worded and whether express or implied) to the transferor were, as respects anything falling to be done on or after the date of the coming into operation of these Regulations, a reference to the Commission, and any reference therein (however worded and whether express or implied) to any director, officer, servant, agent of, or person appointed by the transferor and concerned with the administration of the scheme or the fund held for the purposes thereof were, as respects anything falling to be done on or after the date of the coming into operation of these Regulations, a reference to such person as the Commission may appoint for the administration or participation in the administration of the scheme or fund held for the purposes thereof; and where the fund held for the purposes of the scheme was so held by the transferor with or without any other person, all necessary steps shall forthwith be taken on the coming into operation of these Regulations to secure that the fund shall thereafter be so held by the Commission in place of the transferor and, where the fund was held by any person (being a director, officer, servant, agent of, or person appointed by, the transferor) with or without the transferor or any other person, similar steps shall forthwith be taken on the coming into operation of these Regulations to secure that the fund shall thereafter be so held by such person as the Commission may appoint for the purpose in place of the first mentioned person.

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

(2) On and after the date on which these Regulations come into operation no person, other than an officer or servant, shall become or be entitled to become or be admitted as a participant in the scheme.

(3) Any participant in the scheme whose emoluments are diminished in consequence of the relevant event, the cause of such diminution having arisen not later than ten years after the relevant event, may (without prejudice to any other power he may have in that behalf) with the consent of the Commission and the persons administering the scheme continue his premiums or contributions under the scheme and to have premiums or contributions paid in respect of him thereunder by reference to the amount of his emoluments before they were first so diminished.

12.—(1) In respect of any participant in an exclusive insurance scheme who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen not later than ten years after the relevant event, the Commission may, not later than three months after the date upon which he so loses his employment or three months after the date on which these Regulations come into operation, whichever is the later, make such arrangements with the persons administering the scheme as shall ensure to him on his reaching normal pensionable age or on the happening of any other contingency carrying entitlement to pension under the scheme the payment or payments comprised in his accrued pension rights.

Provided that where such a participant or any other person has been granted after the date of the relevant event and before the date on which these Regulations come into operation, any pension or pension rights under the scheme by reason of the participant having ceased to be a participant

therein, the accrued pension rights to be ensured to the participant in accordance with the foregoing provisions of this paragraph shall be reduced by reason of that grant in such manner as may be provided by the arrangements made under the said provisions.

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

Non-exclusive Insurance Schemes

13.—(1) Every non-exclusive insurance scheme and all trust deeds, rules and other instruments made for the purposes thereof shall, as from the date of the relevant event, be deemed in all respects to be and shall be administered as two separate schemes, being as to the one part a scheme for the provision of pensions to or in respect of officers and servants employed in the undertaking or part of the undertaking which is transferred to the Commission in the relevant manner (hereinafter referred to as "the Commission's part") and as to the other part a scheme for the provision of pensions to or in respect of persons not being such officers or servants (hereinafter referred to as "the transferor's part").

(2) The funds, assets and liabilities of every non-exclusive insurance scheme as at the date of the relevant event shall, as soon as practicable after that date, be apportioned between the Commission's part and the transferor's part. Every such apportionment shall, in default of agreement between the parties concerned, be determined by an actuary appointed by the President of the Institute of Actuaries or the President of the Faculty of Actuaries in Scotland. The fees of any actuary appointed for the purposes of this paragraph shall be defrayed by the Commission.

(3) Where the funds and assets held for the purposes of a non-exclusive insurance scheme were so held by the transferor with or without any other person, all necessary steps shall forthwith be taken after the said apportionment has been agreed or determined to secure that the part of the funds and assets apportioned to the Commission's part shall thereafter be so held by the Commission in place of the transferor and, where the funds and assets were held by any person (being a director, officer, servant or agent of the transferor or a person appointed by the transferor for the purpose) with or without the transferor or any other person similar steps shall forthwith be taken after the said apportionment has been agreed or determined to secure that the part of the funds and assets apportioned to the Commission's part shall thereafter be so held by such person as the Commission may appoint for the purpose in place of the first mentioned person.

(4) Where under the foregoing provisions of this Regulation any part of the liabilities of a non-exclusive insurance scheme has been apportioned to the Commission's part, the part so apportioned shall, as from the date on which the apportionment was agreed or determined, become a liability of the Commission's part and shall be enforceable accordingly.

(5) Where any policy issued by an insurance company forms part of the assets of a non-exclusive insurance scheme and under the foregoing provisions of this Regulation the benefits and liabilities thereunder have been apportioned between the Commission's part and the transferor's part, the insurance company shall issue in substitution for such policy two policies to give effect to the apportionment so made, one in favour of the person or persons by whom the assets held for the purposes of the Commission's part are so held and the other in favour of the person or persons in whose favour the said policy stood at the date when the said apportionment was agreed or determined.

(6) Subject to the foregoing provisions of this Regulation the Commission's part shall continue subject to the modification thereof provided for in paragraph (7) of this Regulation.

(7) The provisions of Regulations 10 to 12 of these Regulations shall apply in relation to the Commission's part and to a participant therein as they apply in relation to an exclusive insurance scheme and to a participant therein.

General Schemes

14.—(1) This Regulation applies to every pension scheme, not being an insurance scheme or a funded scheme, which immediately before the date of any relevant event relates in whole or in part to providing pensions to or in respect of any officer or servant employed in the undertaking or part of the undertaking which is transferred to the Commission in the relevant manner. Any such scheme is in these Regulations referred to as a " general scheme " and for the purposes of this Regulation the expression " participant " includes a person who does not contribute or has not contributed under the scheme and has pension rights thereunder.

(2) Every participant in a general scheme who becomes employed as an officer or servant by the Commission in consequence of the relevant event and every person employed on probationary service as an officer or servant whose conditions of service were such as to entitle him on completion of his period of probationary service to become such a participant who becomes so employed, shall, subject to the provisions of this Regulation, be accorded by the Commission pension rights the same as or not less advantageous than those accorded by his scheme and subject to similar conditions as to payment of contributions and otherwise and the Commission shall have similar rights respecting the variation of terms and conditions affecting pension rights as were had at the date of the relevant event by any person.

(3) There shall be paid to or in respect of a participant in a general scheme, being such a participant or person employed on probationary service as is referred to in the last preceding paragraph, who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss having arisen not later than ten years after the relevant event—

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

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

Provided that the provisions of sub-paragraph (*b*) of this paragraph shall not apply in any case where the option is not exercised before the expiration of a period of six months after the date upon which the officer or servant loses his employment as an officer or servant or after the date on which these Regulations come into operation whichever is the later.

Determination of Disputes

15. Any question arising between the Commission and a participant in a funded scheme or a general scheme, or between the Commission and a person employed on probationary service whose conditions of service were such as to entitle or require him on completion of his period of probationary service to become such a participant, as to the application or effect of any of the provisions of paragraph (1) of Regulation 3, sub-paragraph (*a*) of paragraph (1) of Regulation 4, paragraph (1) of Regulation 5, sub-paragraph (*a*) of paragraph (1) of Regulation 7 or of paragraph (2) or sub-paragraph (*a*) of paragraph (3) of Regulation 14 of these Regulations shall in default of agreement between the parties concerned be referred to a tribunal whose decision thereon shall be final.

Given under the Official Seal of the Minister of Transport this first day of September, 1952.

(L.S.)

Alan Lennox-Boyd,
The Minister of Transport.

EXPLANATORY NOTE

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

These Regulations provide for the preservation of the pension rights of whole-time employees of road haulage undertakings acquired by the British Transport Commission and provide for those rights to continue during employment with the Commission.

Where the pension scheme of the acquired undertaking was operated through a fund the Commission are to receive a transfer value from the fund in respect of each participating employee who enters their service or whose accrued pension rights they become liable to preserve (Regs. 2 and 6). They are to give the employee who enters their service pension rights the same as, or as good as, those he had before the transfer, subject to the same conditions (Reg. 3). The pension payable is to be reduced if the employee has already received from the fund a return of his contributions, but he is to have an opportunity to refund the amount received and if he does so his full pension rights are to be restored (Reg. 8).

If the pension scheme of the acquired undertaking was operated by means of insurance policies the scheme is to continue unless it included persons other than those employed in the undertaking acquired by the Commission, in which case it is to be divided into two parts, the Commission's part and the transferor's part, for which separate policies are to be issued (Regs. 9 and 13). Employment with the Commission is to be treated as if it were with the former employer and the Commission are to take the former employer's place in relation to the scheme or, if the scheme is divided, to the Commission's part (Reg. 10 and paragraphs (6) and (7) of Reg. 13).

If the pension arrangements of the acquired undertaking were otherwise than a funded scheme or an insurance scheme (e.g. "ex gratia" payments under customary practice) the Commission are to give an employee who enters their service pension rights the same as, or as good as, the former employer would have given, subject to the same conditions (Reg. 14).

Regulations 4, 5, 7, 12 and 14 contain provisions for the preservation of the accrued pension rights of employees who lose employment as a result of the transfer of the undertaking (in the case of participants in funded or insurance schemes, whether or not they pass into the service of the Commission). The rights are normally to be preserved until the employee reaches pensionable age or until some event occurs which under the rules of his scheme would have entitled him to receive pension, but where the rights are to be preserved by the Commission they may commute their liability for a lump sum payment where the amount involved does not exceed £250 and in certain other circumstances the employee has an option of taking an immediate lump sum. The accrued pension rights to be preserved are reduced if the employee has already received a return of his contributions or has been given a paid-up policy on losing employment, but a participant in a funded scheme may refund the amount received as return of contributions and if he does so his full accrued pension rights are to be restored (Regs. 8 and 12).

Provision is made for the settlement of disputes (Reg. 15).

TRANSPORT CHARGES

1952 No. 2015

The Canals (Additional Charges) (Amendment) Regulations, 1952

Made - - - -	20*th November*, 1952
Laid before Parliament	21*st November*, 1952
Coming into Operation	1*st December*, 1952

In exercise of the powers conferred upon him by Section 82 of the Transport Act, 1947(**a**), and of all other powers him enabling in that behalf, and after consultation with and consideration of the advice of the permanent members of the Transport Tribunal acting as a consultative committee, the Minister of Transport hereby makes the following Regulations:—

1.—(1) These Regulations shall come into operation on the first day of December, 1952, and may be cited as the Canals (Additional Charges) (Amendment) Regulations, 1952.

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

"the Commission" means the British Transport Commission.

"the principal Regulations" means the Canals (Additional Charges) Regulations, 1950(**b**).

(**a**) 10 & 11 Geo. 6. c. 49. (**b**) S.I. 1950/704; 1950 II, p. 78.