

ELIZABETH II



1981 CHAPTER xv

An Act to transfer to a new company to be established for that purpose the trusteeships of the British Railways Board in respect of certain pension schemes of the Board; to transfer the assets relating to such schemes; and for other purposes. [2nd July 1981]

WHEREAS—

(1) By the Transport Act 1962 the British Railways Board 1962 c. 46. (hereinafter referred to as "the Board") were established:

(2) By section 73 of the said Act of 1962 the Board have power to pay pensions and enter into obligations under pension schemes:

(3) The Board are trustees in respect of various pension schemes which have been established by the Board or their predecessors for the benefit of persons who are, or have been, employed in the transport industry and the Board have vested in them as trustees the assets comprised in such schemes:

(4) It is expedient that for the better management of the said pension schemes the rights, liabilities and functions of the Board as such trustees should be vested in a separate company incorporated for that purpose and that the assets relating to such pension schemes should be vested in the said company:

(5) It is expedient that the powers of investment of the said company should be exercisable uniformly in respect of the said pension schemes:

(6) It is expedient that the other provisions contained in this Act should be enacted:

(7) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the British Railways (Pension Schemes) Act 1981.

Interpretation.

1962 c. 46.

1968 c. 73.

2. In this Act, unless the context otherwise requires—

“the Act of 1962” means the Transport Act 1962;

“the Act of 1968” means the Transport Act 1968;

“appointment resolution” means any resolution passed by the Board under section 3 (Appointed day) of this Act;

“the Board” means the British Railways Board;

“first appointed day” and “subsequent appointed day” have the meanings given by the said section 3;

“pension” in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto and any sums payable on or in respect of the death of that person;

“pension scheme” includes any form of arrangement for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;

“the trust company” means the company formed by the Board pursuant to section 4 (Power to establish trust company) of this Act.

3.—(1) In this Act “ the first appointed day ” and “ subsequent appointed day ” mean such days as may be fixed by appointment resolution of the Board under this section for the purpose of vesting any property, rights, liabilities and functions in the trust company under this Act: Appointed day.

Provided that, in the case of any appointment resolution which fixes a subsequent appointed day, that resolution shall specify the pension scheme of which the assets, rights and liabilities shall vest in the trust company.

(2) The Board shall publish in a newspaper circulating in London and in the London Gazette, the Edinburgh Gazette and the Belfast Gazette notice of the passing of an appointment resolution and of the days fixed thereby, and the days so fixed shall not be earlier than the expiration of 28 days from the date of the last publication of the notice.

(3) A photostatic or other reproduction certified by an officer of the Board designated by them for the purposes of this subsection to be a true reproduction of a page or part of a page of any newspaper or gazette, being a page or part of a page bearing the date of publication and containing the notice mentioned in subsection (2) of this section, shall be evidence of the publication of the notice, and of the date of publication.

4.—(1) Notwithstanding anything in any enactment to the contrary, the Board may form, subscribe for and hold shares in, and exercise all the rights and perform all the duties of a member of, a company which shall be incorporated under the Companies Act 1948 as the trust company to act as trustee for any pension scheme hitherto or hereafter administered or created by, or the assets of which are held by or to the order of, the Board. Power to establish trust company.
1948 c. 38.

(2) The trust company shall have an issued capital of not less than £250,000 of which all shall at all times be held by, or to the order of, the Board.

(3) The trust company shall (in addition to its other powers and status) for all purposes be deemed to be a trust corporation within the meaning of section 205(1) of the Law of Property Act 1925 and section 68(1) of the Trustee Act 1925 and to be a corporation entitled to act as a custodian trustee pursuant to the Public Trustee Rules 1912. 1925 c. 20.
1925 c. 19.
S.R. & O.
1912/348.

(4) Notwithstanding the provisions of subsection (2) of this section, the trust company and any subsidiary of the trust company shall be deemed not to be a subsidiary of the Board for the purposes of—

(a) subsection (1) of section 15 of the Act of 1962, as applied to the Board by subsection (2) of section 51 of the Act of 1968;

(b) section 25 and subsection (5) of section 27 of the Act of 1962;

(c) subsections (2) and (3) of section 41 of the Act of 1968;

OR

(d) section 4 of the Railways Act 1974.

1974 c. 48.

(5) For the purposes of subsection (1) of section 27 of the Act of 1962, the functions of the Board shall be deemed not to include the exercise of any rights conferred by the Board's interest in the trust company.

Vesting:

5.—(1) On the first appointed day there shall vest in the trust company—

(a) all the rights, liabilities and functions of the Board as trustees of the pension schemes specified in the Schedule to this Act; and

(b) all the property (including every legal estate and equitable interest) in every asset which shall immediately before the first appointed day be held by, or to the order of, the Board as such trustees.

(2) On any subsequent appointed day there shall vest in the trust company—

(a) all the rights, liabilities and functions of the Board as trustees of each pension scheme specified in the appointment resolution; and

(b) all the property (including every legal estate and equitable interest) in every asset which shall immediately before such subsequent appointed day be held by, or to the order of, the Board as such trustees.

(3) Immediately upon each such vesting as provided in subsection (1) or (2) of this section the trust company shall become and be the sole trustee of each of the pension schemes so vesting in place of the Board, and thenceforth shall have and exercise all the powers, duties and functions, and be subject to all the liabilities, of the trustee or trustees of each such pension scheme according to its trust deed, or other its constitution.

Saving of Board's rights as employers.

6.—(1) The vesting in the trust company of any of the rights, liabilities and functions of the Board under section 5 (Vesting) of this Act shall not in any way affect the rights, liabilities and functions of the Board as the employers, or the successors of any employer, of any person who is a member or beneficiary of any pension scheme of which the assets shall so vest in the trust company, and the Board shall in all respects continue to be such employers.

(2) Save to the extent that there is any express exclusion or limitation of any right or power in that behalf therein, the Board shall have full power (in their capacity as employers or settlors) to amend by deed the constitution of any trust affecting any of the pension schemes of which the rights, liabilities and functions are transferred to the trust company, howsoever the said trust may have been created.

(3) Where, immediately before the first appointed day or any relevant subsequent appointed day, the Board are liable to indemnify any person against any insufficiency of assets held by, or on behalf of, the trustees of any of the pension schemes of which the assets shall vest in the trust company under this Act, the liability of the Board shall continue, notwithstanding that the Board are no longer trustees of that pension scheme.

(4) Nothing in this Act shall in any way affect any liability of any person for any breach of trust in respect of any of the assets which become vested in the trust company under this Act committed before the date on which that asset shall vest in the trust company.

7.—(1) Notwithstanding any provision in any statute or instrument (whether or not having any statutory effect) relating to any pension scheme, but subject to the provisions of subsection (2) of this section, the trust company shall have power at all times and from time to time to invest or to hold or stand possessed of all or any of the assets of any pension scheme of which the assets are or become vested in the trust company in such manner that the said assets, or any of them, may be—

Powers of investment.

- (a) mingled with the assets of any other such pension scheme or pension schemes or of another fund or funds; or
- (b) held jointly with assets of another fund or other funds; or
- (c) otherwise intermixed with assets, investments or property of whatsoever kind or wheresoever situate;

without the same being separately designated or allocated as an asset of that, or any particular, pension scheme or fund.

(2) The trust company shall not exercise the powers conferred by subsection (1) of this section in any manner which would prejudice the approval under Chapter II of Part II of the Finance Act 1970 of any pension scheme.

1970 c. 24.

(3) In respect of each pension scheme of which the assets become vested in the trust company (in this subsection separately called "the fund") the trust company shall have the widest

possible power of investing and transposing investments, and in particular (but without prejudice to the generality of the foregoing)—

(a) (i) Money forming part of the assets of the fund may be applied or invested in the purchase or other acquisition (whether severally or jointly with any other person) of any property of whatsoever nature or wheresoever situate (including the purchase of any right or interest, and whether movable or immovable, and whether income producing or not, and including the loan or deposit of money on any personal or other security or upon any term) as freely as if the trust company were absolutely and beneficially entitled to the money so invested; and

(ii) The trust company shall have in respect of any immovable property or chattels forming part of the said assets all the powers of disposition, leasing, mortgaging, charging, surrendering and accepting surrenders of leases, management, repair, building, development, equipment, furnishing and improvement, and other powers, as if it were a beneficial owner absolutely entitled (including full powers to stock farms and to carry on, equip and finance any farming, forestry, or any business in any part of the world), and may in that behalf (or in respect of any chattels for the time being held) make any outlay from the income or capital of the relevant fund;

(b) The trust company shall have power—

(i) to purchase, acquire or effect any reversionary or deferred property, or right of any description, or any chose in action, lease, option or other contractual right or any life, or life endowment, or sinking fund, or term, contingency, or indemnity or other policy of insurance (of whatsoever nature) at or subject to any premium, whether single or payable periodically, and with or subject to any options, rights, benefits, conditions, or provision whatsoever;

(ii) to pay out of income or capital, as the trust company in its discretion shall think fit, all sums payable from time to time for premiums, or otherwise, for the effecting, or maintenance, of any such policy or for the exercise or enjoyment of any option, right or benefit thereunder (and any surrender of any such policy shall be deemed to be a sale thereof);

(iii) to pay any sum in respect of any legal or other process, valuation or advice deemed by the trust

company proper or convenient for renewing, enhancing or improving the value of the fund or of any asset of the fund, including (but without prejudice to the generality of the foregoing) the obtaining, or appealing against the refusal, of any planning or other permission or consent, or any licence;

(iv) to surrender or extinguish any property, or right or interest in property, (notwithstanding that the same might deprive the fund of an asset) for the purpose of the better or wider investment of the fund as a whole; and

(v) to borrow money (in any part of the world) with or without giving any security on assets held by, or to the order of, the trust company.

8.—(1) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of the amount which forms the capital of a company which the Commissioners of Inland Revenue are satisfied is the trust company. Stamp duty and capital taxes. 1973 c. 51.

(2) A vesting in the trust company effected under this Act shall not give rise to any liability to tax pursuant to Part III of the Finance Act 1975 or the Capital Gains Tax Act 1979. 1975 c. 7. 1979 c. 14.

9.—(1) The trust company shall have power to appoint or nominate any person to act as a nominee or to hold on behalf of the trust company any assets at any time vested in the trust company (wheresoever the same are situate), and may delegate to such appointee or nominee such of the powers of the trust company as may be necessary or convenient to enable the assets held, or to be held, by him to be administered or dealt with in the ordinary course of investment or commercial practice. Appointment of nominees.

(2) Every appointee or nominee appointed or nominated under subsection (1) of this section shall hold each asset which comes into his hands as a bare trustee for the trust company, or for the trust company and such other person as may be jointly with the trust company entitled thereto, and shall in all respects be subject to the directions of the trust company (whether alone or jointly as aforesaid).

10.—(1) The production of a Queen's Printer's copy of this Act and of a copy (certified by the chief secretary to be a true copy) of any appointment resolution shall be conclusive evidence of the vesting in the trust company of the property in every asset which immediately before the day appointed in the resolution was vested in the Board as trustees of any of the pension schemes specified in the Schedule to this Act, or in the resolution, as the case may be. Evidence of transfer of assets.

1963 c. 18.

(2) A copy of this Act shall operate as a duly executed stock transfer for all the purposes of the Stock Transfer Act 1963 in respect of the vesting of any securities under section 5 (Vesting) of this Act and there shall accompany any copy of the Act produced for such purposes a letter of request signed on behalf of the Board by the chief secretary specifying the securities in respect of which the Act is so produced.

(3) In this section "the chief secretary" means the secretary of the Board or some other person authorised by the Board, either generally or specially, to act for the purposes of this section.

Costs of
Act.

11. All costs, charges and expenses preliminary to and of and incidental to the preparation, applying for, obtaining and passing of this Act shall be paid by the Board and the Board shall bear the expenses incidental to and in connection with the registration of any security or property vested in the trust company under section 5 (Vesting) of this Act.

SCHEDULE

Sections 5
(1)(a) and 10(1).

THE PENSION SCHEMES

British Railways Superannuation Fund—

New Section.

Amalgamated Sections.

British Railways (Wages Grades) Pension Fund.

British Transport Police Force Superannuation Fund.

B.R. (1974) Pension Fund.

Great Eastern Railway Higher Pension Fund.

Great Eastern Railway New Pension Fund.

Great Eastern Railway New Pension Fund and New Pension
(Supplemental) Fund Trust Account.

Great Eastern Railway New Pension Supplemental Fund.

Great Western Railway Inspectors and Foremen's Special Pension
Fund.

Great Western Railway Salaried Staff Supplemental Pension Fund.

Great Western Railway Salaried Staff Widows' and Orphans' Pension
Society.

Great Western Railway Supplemental Pensions Reserve Fund.

Great Western Railway Widows and Orphans' Benevolent Fund.

Lancashire and Yorkshire Railway Pension Fund Society.

London Brighton and South Coast Railway Pension Fund.

London and North Western Railway Provident Society for providing
Pensions for Widows and Orphans of the Salaried Staff.

London and North Western Railway Supplementary Pension Fund and
Locomotive Foremen's Pension Fund.

North British Railway Insurance Society.

North Eastern and Great Eastern Superannuation Societies and
Pension Funds Joint Trust Account.

North Eastern Railway Police Superannuation Society.

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