

SCHEDULES

SCHEDULE 25

Section 240.

TRANSFER OF BR'S PROPERTY ETC. TO SECRETARY OF STATE

Transfer schemes

- 1 (1) The Secretary of State may make one or more schemes for the transfer to him of any property, rights and liabilities of the Board, other than the property, rights and liabilities relating to the transport police transferred under Schedule 18.
- (2) In this Schedule “transfer scheme” means a scheme under this paragraph.

Contents of transfer scheme

- 2 (1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.
- (2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- 3 A transfer scheme may define the property, rights and liabilities to be transferred to the Secretary of State by specifying them or describing them or by referring to all (or all except anything specified or described) of the property, rights and liabilities comprised in a specified part of the undertaking of the Board (or partly in one way and partly in the other).
- 4 A transfer scheme may contain provision—
- (a) for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the Board,
 - (b) for the creation in favour of the Secretary of State of an interest in or right over, property retained by the Board,
 - (c) for the creation of rights and liabilities as between the Secretary of State and the Board, or
 - (d) for any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against the Secretary of State.
- 5 A transfer scheme may make such supplementary, incidental and consequential provision as the Secretary of State considers appropriate.

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Functions under legislation

- 6 (1) A transfer scheme may provide that any functions of the Board under a statutory provision shall be transferred to the Secretary of State.
- (2) Sub-paragraph (1) applies in relation to any function under a statutory provision if and to the extent that the statutory provision—
- (a) relates to any property which is to be transferred by the scheme, or
 - (b) authorises the carrying out of works designed to be used in connection with any such property or the acquisition of land for the purpose of carrying out any such works.
- (3) In this paragraph “statutory provision” means a provision whether of a general or of a special nature contained in, or in any document made or issued under, any Act (whether of a general or a special nature) other than the Railways Act 1993 or this Part.

Effect of transfer scheme

- 7 On the date appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this paragraph, be transferred in accordance with the provisions of the scheme.
- 8 Nothing in this Act affects the validity of anything done by or in relation to the Board in connection with anything transferred by a transfer scheme.
- 9 There may be continued by or in relation to the Secretary of State anything (including legal proceedings) relating to anything transferred by a transfer scheme which is in the process of being done by or in relation to the Board immediately before it is transferred.
- 10 Anything done by the Board for the purpose of or in connection with anything transferred by a transfer scheme which is in effect immediately before it is transferred shall be treated as if done by the Secretary of State.
- 11 The Secretary of State shall be substituted for the Board in documents and legal proceedings relating to anything transferred by a transfer scheme.

Transfer of employees

- 12 Where a person employed by the Board becomes employed in the civil service of the state by virtue of a transfer scheme—
- (a) for the purposes of Part XI of the Employment Rights Act 1996, he shall not be regarded as having been dismissed by virtue of the transfer, and
 - (b) for the purposes of that Act, his period of employment with the Board counts as a period of employment in the civil service of the state and the change of employment does not break the continuity of the period of employment.

Modification of transfer scheme

- 13 (1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications, other

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than modifications relating to the transfer of rights and liabilities under a contract of employment, as may be specified in the order.

- (2) An order under sub-paragraph (1) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and in connection with giving effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (3) An order under sub-paragraph (1) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Provision of information to Secretary of State

- 14 The Board shall provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any of the powers conferred on him by this Part of this Schedule.

Consultation

- 15 Before making a transfer scheme, or an order modifying such a scheme, the Secretary of State shall consult the Board and the Authority.