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STATUTORY INSTRUMENTS

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**1952 No. 1612**

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

*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 (including contracts or policies made or effected with 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, 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, as extended by the Supplies and Services (Extended Purposes) Act, 1947,

and the Supplies and Services (Defence Purposes) Act, 1951, and continued in force by the Supplies and Services (Continuance) Order, 1951(1):

“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 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 subparagraphs (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, 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(2), 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.