

1969 No. 1824

TRANSPORT

PENSIONS AND COMPENSATION

**The British Transport (Pensions of Employees) (No. 1)
Order 1969**

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| <i>Made</i> | - - - | 17th December 1969 |
| <i>Laid before Parliament</i> | | 30th December 1969 |
| <i>Coming into Operation</i> | | 31st December 1969 |

The Minister of Transport and the Secretary of State, acting jointly, make this Order in exercise of their powers under section 74 of the Transport Act 1962(a), as read with section 136 of the Transport Act 1968(b) and section 18 of the Transport (London) Act 1969(c), and of all other enabling powers:—

PART I

PRELIMINARY

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on the 31st December 1969 and, except as mentioned in paragraph (2) of this Article, shall have effect from the 30th October 1969.

(2) Article 7 of this Order shall have effect from the 1st January 1969, and Articles 10 and 12 to 14 of this Order shall have effect from the 31st December 1969.

(3) This Order may be cited as the British Transport (Pensions of Employees) (No. 1) Order 1969.

(4) In this Order, unless the context otherwise requires—

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

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

“the Act of 1969” means the Transport (London) Act 1969;

“beneficiary”, in relation to a pension scheme, means a person who has pension rights thereunder by virtue of the pensionable service of a member who has died or whose pension rights under the scheme have otherwise terminated;

“the Commission” means the British Transport Commission which was dissolved under the Act of 1962;

“the designated company” means the company (being a wholly owned subsidiary of the National Bus Company) designated under section 16(2) of the Act of 1969;

(a) 1962 c. 46.
(c) 1969 c. 35.

(b) 1968 c. 73.

“employing body” means—

- (a) for a present member of an established scheme, the publicly owned transport body employing him,
- (b) for a past member of an established scheme, the publicly owned transport body in which is vested under such one or more of the following Acts as may be relevant, that is to say, the Transport Act 1947(a), the Act of 1962, the Act of 1968 and the Act of 1969, the particular undertaking, or the particular part of an undertaking (as the case may be), in connection with which he was employed immediately before his pensionable service ended,
- (c) for a beneficiary under an established scheme, the publicly owned transport body which would have been the employing body under the foregoing provisions of this definition for the member by virtue of whose pensionable service the pension rights of the beneficiary have arisen, if that member had not died or if his pension rights under the scheme had not otherwise terminated;

“established scheme” has the meaning given to that expression in Article 2(1) of this Order;

“the Executive” means the London Transport Executive established under section 4 of the Act of 1969;

“the London Board” means the London Transport Board;

“the Minister” means—

- (a) for the purposes of matters relating only to the Scottish Transport Group (including any subsidiary of that group), the Secretary of State,
- (b) for the purposes of matters relating both to the Scottish Transport Group (including any subsidiary as aforesaid) and to other publicly owned transport bodies, the Minister of Transport and the Secretary of State acting jointly, and
- (c) for all other purposes, the Minister of Transport;

“member”, in relation to a pension scheme, means a person who has pension rights thereunder by virtue of his pensionable service, whether or not he is a participant therein, and **“membership”** shall be construed accordingly;

“national transport authority” means any of the following—

- (a) the British Railways Board,
- (b) the London Board,
- (c) the British Transport Docks Board,
- (d) the British Waterways Board,
- (e) the Transport Holding Company,
- (f) the National Freight Corporation,
- (g) the National Bus Company,
- (h) the Scottish Transport Group,
- (i) a subsidiary of any of the above bodies;

“past member”, in relation to a pension scheme, means a member whose pensionable service has ceased;

“pensionable service”, in relation to a member of a pension scheme, means service in respect of which pension rights accrue or have accrued under that scheme;

“present member”, in relation to a pension scheme, means a member whose pensionable service has not ceased ;

“publicly owned transport body” means a national transport authority, the Executive, or a subsidiary of the Executive ;

“relevant Transfer Order”, in relation to a transfer of liabilities or functions, means whichever of the following Orders is an Order under which the liabilities or functions in question have been or are transferred, that is to say, the No. 2 Order of 1962, the No. 3 Order of 1962, the No. 1 Order of 1968 and this Order ;

“responsible body”, in relation to an established scheme, means—

- (i) where the scheme is one in relation to which the rights, liabilities and functions of the London Board are transferred by Part IV of this Order, the publicly owned transport body to which they are so transferred,
- (ii) where the scheme is one in relation to which the property, rights and liabilities of the Transport Holding Company were transferred by Part IV of the No. 1 Order of 1968, the national transport authority to which they were so transferred,
- (iii) where the scheme does not fall within (i) or (ii) above but is a scheme in relation to which the responsibility for making payments was placed, or the rights, liabilities and functions of the Commission were transferred, by the No. 2 or the No. 3 Order of 1962 (as the case may be), the national transport authority (or if more than one, any one of those authorities) on which that responsibility rests, or in which those rights, liabilities and functions are vested, immediately after the 1st January 1970,
- (iv) where the scheme does not fall within (i), (ii) or (iii) above but is a scheme in which employees of a body which is a subsidiary of a national transport authority specified in any of the heads (a) to (h) of the definition of that expression in this Article are participating immediately before the 1st January 1970, whichever of the said national transport authorities is the authority of which the said body is a subsidiary immediately after the 1st January 1970,
- (v) in all other cases, the national transport authority which has established the scheme ;

“subsidiary”, in relation to a national transport authority, has the same meaning as in the Act of 1962, and in this connection no account shall be taken of the provisions of section 51(5) of the Act of 1968 ;

“term”, in relation to a pension scheme, includes any rule or provision of the scheme, or of any statutory provision relating to the scheme, or of any deed or other instrument made for the purposes of the scheme ;

“transport pension scheme” means a pension scheme which relates in whole or in part to the provision of pensions in respect of service rendered in the employment of a publicly owned transport body.

(5) References in this Order to the No. 1, 2, 3 or 4 Order of 1962, the No. 1 Order of 1964, or the No. 1 or 2 Order of 1968 are respectively references—

(a) in the case of an Order of 1962 or 1964, to the British Transport Re-organisation (Pensions of Employees) Order so numbered of the year in question (a), and

(b) in the case of an Order of 1968, to the British Transport (Pensions of Employees) Order so numbered of that year (b).

(6) Unless the context otherwise requires, references in this Order to the provisions of any enactment or instrument shall be construed as references to those provisions as amended, re-enacted or modified by or under any subsequent enactment or instrument.

(7) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 38 of that Act this Order were an Act of Parliament and the provisions revoked by Article 5 of this Order were provisions of an Act of Parliament thereby repealed.

Application of the Order

2.—(1) This Order applies to every established scheme, that is to say, to every transport pension scheme which is in existence on the 1st January 1970 and which is either—

(a) an existing scheme within the meaning of the No. 1 Order of 1964, or

(b) a pension scheme established under section 74 of the Act of 1962, or

(c) a pension scheme which does not fall within (a) or (b) above but is a scheme in which employees of, or of a subsidiary of, the British Railways Board or the Transport Holding Company were participating immediately before the 1st January 1969, or

(d) a pension scheme which does not fall within (a), (b) or (c) above but is a scheme in which employees of, or of a subsidiary of, the London Board are participating immediately before the 1st January 1970.

(2) Every established scheme shall, subject to the provisions of paragraph (3) of this Article, be construed and have effect as if the provisions of this Order were terms of the scheme, any other term thereof, whether express or implied, to the contrary notwithstanding, and each publicly owned transport body shall, for the purposes of giving effect to this Order, be bound by the terms of every such scheme.

(3) The rights to continue to participate in an established scheme given by this Order shall be additional to any similar rights existing under the terms of that scheme apart from the provisions of this Order and nothing in this Order shall derogate from such rights where they subsist.

PART II

REPLACEMENT, ADAPTATION AND EXTENSION OF PROVISIONS OF CERTAIN ORDERS

Obligations of employing bodies

3.—(1) Where in consequence of a statutory provision specified in paragraph (4) of this Article the employing body for any present member of an

(a) No. 1 Order 1962—S.I. 1962/2714 (1962 III, p. 3688); No. 2 Order 1962—S.I. 1962/2715 (1962 III, p. 3692); No. 3 Order 1962—S.I. 1962/2758 (1962 III, p. 3866); No. 4 Order 1962—S.I. 1962/2793 (1962 III, p. 4020); No. 1 Order 1964—S.I. 1964/1329 (1964 II, p. 3034).

(b) No. 1 Order 1968—S.I. 1968/2011 (1968 III, p. 5450); No. 2 Order 1968—S.I. 1968/2012 (1968 III, p. 5462).

(c) 1889 c. 63.

established scheme is not the responsible body, or one of the responsible bodies, for that scheme, then—

(a) any sums required by the terms of that scheme to be paid by that member as his contributions to the scheme shall be deducted by the employing body from his salary or wages and shall be paid by that body in accordance with those terms to the trustees of, or persons administering, the scheme; and

(b) any sums required by the terms of that scheme to be paid in respect of that member by his employer as the employer's contributions to the scheme shall be paid by the employing body in accordance with those terms to the trustees of, or persons administering, the scheme.

(2) Where in consequence of a statutory provision specified in paragraph (4) of this Article the employing body for any present members or past members of, or beneficiaries under, an established scheme is not the responsible body, or one of the responsible bodies, for that scheme, then—

(a) the employing body shall make such payments to the responsible body or bodies by way of contributions towards the administrative expenses of the scheme or (subject to the provisions of paragraph (3) of this Article) towards any payments which the responsible body in question is obliged to make in the discharge of the liabilities, or in performance of the functions, transferred to it under a relevant Transfer Order in relation to the scheme, or to implement any guarantee given by such responsible body or binding upon it by virtue of the provisions of such Transfer Order in relation to the scheme, as may be equitable having regard to all the circumstances of the case, including the number of present members, past members and beneficiaries involved, and to any obligations or benefits (including past or prospective obligations or benefits) of the employing body or of, or in relation to, such present members, past members and beneficiaries as aforesaid, and in the case of any disagreement between the employing body and any responsible body or between any responsible bodies themselves, as to their obligations under this paragraph, the matter shall on the application of any of the bodies concerned be determined by the Minister, whose decision shall be final;

(b) the Minister may, on the application of the employing body or of any responsible body, and after consultation with any other body concerned, direct that any power in relation to that scheme (whether a power of appointing trustees, amending rules, approving the admission of members, or otherwise howsoever in relation to that scheme) exercisable by the responsible body or bodies for the scheme shall be exercisable by the employing body to such extent (whether instead of the responsible body or bodies or jointly with such body or bodies) and in such manner as may appear to the Minister to be appropriate, and where any such direction is so given the terms of the scheme shall, whilst the direction remains in force, have effect subject to the provisions of the direction.

(3) Except in pursuance of an agreement made, with the consent of the Minister, between the employing body and the responsible body or bodies concerned, the employing body shall not by virtue of paragraph (2) of this Article be required to make any payment to any responsible body by way of a contribution towards any payments which the responsible body is obliged to make in discharge of any liability transferred to it by a relevant Transfer Order, being a liability in connection with any pension fund monies which were deposited with the Commission before the 1st January 1963 for the purposes of any established scheme.

(4) The statutory provisions referred to in paragraphs (1) and (2) of this Article are any provision of—

- (a) the Act of 1962,
- (b) the Act of 1968,
- (c) the Act of 1969,
- (d) any order or scheme made under any of the said Acts.

Persons having pension rights under an established scheme and becoming members or directors of a publicly owned transport body

4. Where a person who has pension rights under an established scheme by virtue of his employment by the Commission or a publicly owned transport body is on the 30th October 1969 or becomes on or after that date, a member or director of a publicly owned transport body and holds his office as such a member or director full time and at a salary, he shall be entitled to be treated for the purposes of that scheme as if his service as such a member or director were service in the employment of such a body, and as if, where that service immediately precedes or follows other service which is, or is to be treated as, service in the employment of a publicly owned transport body, the two periods of service were continuous.

Revocation of provisions

5. Articles 13 and 14 of the No. 3 Order of 1962 and Articles 7 and 8 of the No. 1 Order of 1964 (which make provision corresponding to Article 3 of this Order), Article 16 of the No. 3 Order of 1962 (which makes provision corresponding to Article 4 of this Order) and Article 4 of the No. 1 Order of 1968 (which adapts and extends Articles 13, 14 and 16 of the No. 3 Order of 1962) are hereby revoked.

Interavailability of pension schemes

6.—(1) The No. 1 Order of 1964 (which enables employees of one national transport authority to continue to participate in or to re-enter pension schemes of another national transport authority), (except Article 5 thereof), as amended by Article 3 of the No. 1 Order of 1968, shall have effect as if—

- (a) (except in relation to the cases mentioned in paragraph (2) of this Article) the expression “Board” in the said Order of 1964 included the Executive, and
- (b) the expression “existing scheme” in that Order included any established scheme as defined in this Order.

(2) The cases referred to in paragraph (1) of this Article are—

- (a) where a member of a pension scheme specified in Part 1 of the Schedule to this Order ceases, after the 1st January 1970, to be in the employment of the Executive or of a subsidiary of the Executive (otherwise than by reason of a transfer under section 21 or 22 of the Act of 1969) and enters the employment of a national transport authority ;
- (b) where a member of an established scheme (not being a pension scheme specified in Part 1 of the Schedule to this Order or referred to in Article 12(2) of this Order) ceases, after the 1st January 1970, to be in the employment of a national transport authority (otherwise than as aforesaid) and enters the employment of the Executive or of a subsidiary of the Executive.

Amendment of No. 1 Order of 1968

7. In Article 11 of the No. 1 Order of 1968 (which makes provision as to the transfer of property, rights and liabilities of the Transport Holding Company relating to pension schemes) there shall be inserted after paragraph (2) the following paragraph :—

“(2A) Without prejudice to the foregoing provisions of this Article, the following provisions shall have effect in relation to the Railway Clearing System Superannuation Fund Scheme on and after the 1st January 1969 :—

- (a) the Freight Corporation shall be regarded as an Assenting Contributing Body within the meaning of, and for all the purposes of, that scheme, and
- (b) the Freight Corporation shall be regarded for the purposes of that scheme as the employer of every member thereof who becomes, or is, employed by a subsidiary of that Corporation on or at any time after the 1st January 1969.”.

PART III**ELIGIBILITY TO PARTICIPATE IN PENSION SCHEMES***Preservation of eligibility*

8. Any person who, immediately before the 1st January 1970, is a present member of a pension scheme specified in Part 1 of the Schedule to this Order but who does not on or before that date become employed by the Executive or by a subsidiary of the Executive shall not in consequence of the transfer to the Executive of the rights, liabilities and functions of the London Board relating to that scheme provided for in Part IV of this Order cease to be eligible to be a member of that scheme.

Persons having no pension rights under an established scheme and becoming employees of the Executive or the designated company before 1st January 1970

9. Where a person who has no pension rights under an established scheme enters before the 1st January 1970 the employment of the Executive or the designated company after leaving the employment of the London Board or a subsidiary of that Board, he shall be eligible to become a member of that established scheme to the same extent and on the same basis as he would have been so eligible if, instead of entering the employment of the Executive or the designated company, he had been continuing in comparable employment of the London Board and if the transfer of the property, rights and liabilities of the London Board under section 16 of the Act of 1969 were not taking place.

Certain transfers not to affect eligibility to join pension schemes

10. Where by reason of a transfer under section 16, 21(3) or 22(2) of the Act of 1969 a person ceases to be employed by one publicly owned transport body and becomes employed by another such body, or the employer of a person ceases to be a subsidiary of one publicly owned transport body and becomes a subsidiary of another such body, and that person is not, immediately before the transfer, a member of an established scheme, then he shall, notwithstanding the transfer, be eligible to become a member of that established scheme to the same extent and on the same basis as he would have been so eligible if the transfer had not occurred.

Designation of pension schemes for employees of subsidiaries of the Executive, if no other pension schemes are available

11. Where on or after the 30th October 1969 a person enters employment by a subsidiary of the Executive (whether by reason of becoming an employee of that subsidiary or by reason of a change in the terms and conditions of his existing employment by that subsidiary) and apart from the provisions of this Article that person would not be eligible to become a member of a transport pension scheme appropriate to the employment which he is entering, then he shall be eligible to become a member of the London Transport (Administrative and Supervisory) Staff Superannuation Fund or the London Transport Pension Fund according as the terms and conditions of that employment would have created eligibility for membership of the Fund in question, if the employment entered had been that of the Executive.

PART IV

TRANSFER OF RIGHTS AND LIABILITIES OF LONDON BOARD

Transfer of property, rights and liabilities

12.—(1) The rights, liabilities and functions of the London Board relating to, and any property held by that Board on trust for, the established schemes which are specified in Parts 1 and 2 of the Schedule to this Order shall be respectively transferred to the Executive and the designated company.

(2) The rights, liabilities and functions of the London Board (including any property held on trust by that Board) relating to the London Borough of Newham Superannuation Fund (so far as regards persons who were formerly members of the West Ham Corporation Superannuation Fund) or to the Railway Clearing System Superannuation Fund Scheme which were transferred to the London Board by the No. 3 Order of 1962 shall be transferred to the Executive or the designated company according as those rights, liabilities, functions and property relate to persons (whether present members, or past members of, or beneficiaries under, the pension scheme in question) for whom the Executive or the designated company (as the case may be) is, or becomes, the employing body on the 1st January 1970.

(3) Any rights, liabilities and functions of the London Board relating to pensions or pension schemes, which are not transferred under the foregoing provisions of this Article or under Article 13 of this Order, shall be transferred to the Executive.

Transfer of certain liabilities

13.—(1) The liabilities of the London Board to make payments or contributions to some other national transport authority under any of the provisions mentioned in paragraph (2) of this Article shall be transferred to the Executive or the designated company according as those liabilities relate to persons (whether present members or past members of, or beneficiaries under, a pension scheme) for whom the Executive or the designated company (as the case may be) is, or becomes, the employing body on the 1st January 1970.

(2) The provisions referred to in paragraph (1) of this Article are the provisions of—

(a) Article 5 of the No. 1 Order of 1962,

(b) Articles 13 and 14 of the No. 3 Order of 1962,

- (c) Article 10 of the No. 4 Order of 1962,
- (d) Articles 7 and 8 of the No. 1 Order of 1964.

General provisions as to transfers

14.—(1) All the transfers of rights, liabilities, functions and property of the London Board provided for in this Part of this Order shall take place on the 1st January 1970 and shall be transfers subject to the provisions of this Order, and the rights, liabilities, functions and property hereby transferred shall by virtue of this Order vest on that date in the bodies to which they are respectively transferred.

(2) The provisions of paragraphs 8 to 13 of Schedule 2 to the Act of 1969 (so far as relevant) shall apply in relation to the transfers provided for in this Part of this Order but subject to the following modifications, that is to say,

(a) the word "agreement" in those paragraphs shall include any trust deed, rules or other instrument relating to an established scheme,

(b) the references to property, rights or liabilities in those paragraphs shall include references to functions,

(c) nothing in those paragraphs shall, in relation to the cases mentioned in paragraph (2) of Article 6 to this Order, have the effect of applying the No. 1 Order of 1964 to the Executive as if it were the London Board.

(3) Without prejudice to the foregoing provisions of this Article, the following provisions shall have effect in relation to the Railway Clearing System Superannuation Fund Scheme on and after the 1st January 1970:—

(a) the Executive and the designated company shall be regarded as Assenting Contributing Bodies within the meaning of, and for all the purposes of, that scheme, and

(b) the Executive and the designated company shall respectively be regarded for the purposes of that scheme as the employer of every present member thereof for whom a subsidiary of the Executive or of that company (as the case may be) becomes, or is, the employing body at any time after the 1st January 1970.

(4) Nothing in this Part of this Order shall affect the tenure of office of any person appointed or nominated by the London Board before the 1st January 1970 in the exercise of any power conferred on that Board by any term of any established scheme or otherwise exercisable by that Board in relation to an established scheme.

Given under the Official Seal of the Minister of Transport the 15th December 1969.

(L.S.)

Fred Mulley,
Minister of Transport.

Given under the Seal of the Secretary of State for Scotland on 17th December 1969.

(L.S.)

William Ross,
Secretary of State for Scotland.

THE SCHEDULE**PART 1****ESTABLISHED SCHEMES—THE EXECUTIVE**

- British Electrical Endowment Fund.
- Greater London Council Superannuation Fund.
- London Borough of Bexley Superannuation Fund.
- London Borough of Croydon Superannuation Fund.
- London Borough of Newham Superannuation Fund (in relation to persons who were formerly members of the East Ham Corporation Superannuation Fund).
- London Borough of Redbridge Superannuation Fund.
- London Borough of Waltham Forest Superannuation Fund.
- London Transport (Administrative and Supervisory) Staff Superannuation Fund.
- London Transport (Male Wages Grades) Pension Scheme.
- London Transport Pension Fund.
- Metropolitan Railway Pension Fund.
- Metropolitan Railway Supplementary Pension Fund (Wages Staff).
- Allowances and supplementation of pensions of the former London Passenger Transport Board in pursuance of customary obligations which became obligations of the Commission under section 99(2) of the Transport Act 1947.
- Allowances and supplementation of pensions of the Commission in pursuance of customary obligations which became obligations of the London Board under section 75 of, and Schedule 7 to, the Act of 1962.
- Allowances and supplementation of pensions of the London Board in pursuance of schemes established with the consent of the Minister under Article 17 of the No. 3 Order of 1962.

PART 2**ESTABLISHED SCHEMES—THE DESIGNATED COMPANY**

- London Transport (Country Buses and Coaches) Employees' Friendly Society.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for certain changes in connection with established pension schemes in the public sector of the transport industry consequent on the establishment of the London Transport Executive by the Transport (London) Act 1969 and the establishment of a new subsidiary of the National Bus Company for the purposes of that Act.

Articles 3 and 4 replace, in an amended form, provisions which appeared in the British Transport Re-organisation (Pensions of Employees) (No. 3) Order 1962 and (No. 1) Order 1964. These provisions relate to the obligations of employing bodies to deduct employees' pension contributions from their salaries and to pay such contributions, together with employers' pension contributions and contributions towards administrative expenses, to the bodies responsible for the pension schemes in question. They also relate to the preservation of pension rights of certain persons who become members or directors of publicly owned transport bodies. The superseded provisions are revoked by Article 5.

Article 6 enables employees of one national transport authority to continue to participate in or to re-enter pension schemes of another national transport authority and Article 7 amends the British Transport (Pensions of Employees) (No. 1) Order 1968 by making further provisions as to the transfer of the rights and liabilities of the Transport Holding Company under the Transport Act 1968.

Provision is made in Articles 8 to 11 to confer on staff of the national transport authorities (and their subsidiaries) additional eligibility to join or to remain in pension schemes.

In Articles 12 to 14 the Order provides for the transfer to the London Transport Executive and the new subsidiary of the National Bus Company of the property, rights and liabilities of the London Transport Board in relation to certain established pension schemes for which the Board is at present responsible.

By virtue of section 74(7) of the Transport Act 1962 Article 7 of the Order has effect from 1st January 1969 and the rest of the Order (except for Articles 10, 12, 13 and 14) has effect from 30th October 1969.