
STATUTORY INSTRUMENTS

1994 No. 609

TRANSPORT

**The British Transport Police Force
Scheme 1963 (Amendment) Order 1994**

<i>Made</i>	- - - -	<i>8th March 1994</i>
<i>Laid before Parliament</i>		<i>8th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

The Secretary of State, in exercise of the powers conferred on him by section 143(3) and (4) of, and paragraph 3(2) of Schedule 10 to, the Railways Act 1993⁽¹⁾, and of all other powers enabling him in that behalf, and after consultation with the British Railways Board and with the persons to whom the Board is for the time being making available the services of transport police, hereby makes the following Order:

1. This Order may be cited as the British Transport Police Force Scheme 1963 (Amendment) Order 1994 and shall come into force on 1st April 1994.

2. The British Transport Police Force Scheme 1963⁽²⁾ shall be amended in accordance with articles 3 to 8 of this Order.

3. In article 1(a) (DEFINITIONS)—

(a) in the definition of “the other Boards”, after the words “public transport undertakings” there shall be inserted “(except other users of the Force)”; and

(b) after the definition of “the other Boards” there shall be inserted the following definition—
““other user of the Force” means a person with whom the Railways Board has made an agreement for making the services of the Force available to that person under article 2A of this Scheme;”.

4. After article 2 (BRITISH TRANSPORT POLICE FORCE) there shall be inserted the following—

“2A. OTHER USERS OF THE FORCE

(1) 1993 c. 43.

(2) See the British Transport Police Force Scheme 1963 (Approval) Order 1964 (S.I. 1964/1456), the Schedule to which contains the scheme. The scheme was subsequently amended by the British Transport Police Force Scheme 1963 (Amendment) Order 1992 (S.I. 1992/364) and continues in force, as if made under section 132 of the Railways Act 1993, by virtue of paragraph 3(2) of Schedule 10 to that Act.

- (a) The Railways Board may make an agreement with any person falling within any class or description of person specified for the purposes of this paragraph in paragraph (b) below for making the services of the Force available to that person for such period, to such extent, and on such terms, as may be specified in the agreement.
- (b) The classes or descriptions of person specified for the purposes of paragraph (a) above are—
 - (i) any person who is a licence holder within the meaning of Part I of the Railways Act 1993;
 - (ii) any person who has the benefit of a licence exemption within the meaning of that Part of that Act;
 - (iii) any person who has the management of, or carries on an undertaking which includes, or includes the provision of transport services on, one or more of the following—
 - (a) a tramway,
 - (b) a transport system which uses another mode of guided transport,
 - (c) a trolley vehicle system;
 not being a person with whom the Railways Board may make an agreement for making the services of the Force available to that person under an enactment other than this article.
- (c) In paragraph (b)(iii) above “guided transport”, “tramway” and “trolley vehicle syste” have the meaning given by section 67(1) of the Transport and Works Act 1992(3).”.

5. In article 3B(c) (REPORTS BY CHIEF CONSTABLE, ETC) for the words “a chief constable of police” there shall be substituted “a chief officer of police”.

6. In article 4 (BRITISH TRANSPORT POLICE COMMITTEE)—

- (a) in paragraph (b) at the beginning there shall be inserted “Subject to paragraph (ba) below,”;
- (b) after paragraph (b) there shall be inserted the following paragraph—
 - “(ba) In addition to members appointed under paragraph (b) above, any other user of the Force—
 - (i) which is or has at at any time been a company wholly owned by the Crown within the meaning of the Railways Act 1993, and
 - (ii) which is an operator of a network within the meaning of Part I of that Act, may appoint one member to the Committee, and where such a user appoints a member to the Committee any reference, in whatever terms, in the succeeding provisions of this article or article 6(a) below to the other Boards which require the services of the Force to be made available to them shall be deemed to include a reference to that user.”;
- (c) in paragraph (ca)(ii) for the words “Central Transport Consultative Committee” there shall be substituted “Central Rail Users' Consultative Committee established under section 3 of the Railways Act 1993”.

7. For article 5 (EXPENSES OF FORCE) there shall be substituted the following article—

“5. EXPENSES OF THE FORCE

- (a) All expenses relating to the Force shall be borne by the Railways Board but the other Boards shall make such contribution towards those expenses as may be agreed between the Boards from time to time and the Railways Board shall be entitled to recover from the other Boards the amounts of their respective contributions.
- (b) Any other user of the Force shall pay to the Railways Board such fee, if any, as is provided for (and howsoever such fee is provided for) in the agreement by which the services of the Force are made available to that user by the Railways Board.”.

8. For article 6 (SETTLEMENT OF DISPUTES) there shall be substituted the following article—

“6. SETTLEMENT OF DISPUTES

- (a) If the Boards or the represented Boards (as the case may be) fail to agree upon any matter which is expressed in this Scheme to be the subject of agreement between them the matter shall be determined by the Minister upon the application of any of them after notice to the others and effect shall be given to such determination.
- (b) Any dispute in relation to the Force which arises between the Railways Board and any other user of the Force shall be determined by the Minister upon the application of either of them after notice to the other and effect shall be given to such determination.”.

9. The text of the British Transport Police Force Scheme 1963, as amended, is set out in the Schedule to this Order.

Signed by authority of the Secretary of State for Transport

Department of Transport
8th March 1994

Roger Freeman
Minister of State,

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SCHEDULE

THE BRITISH TRANSPORT POLICE FORCE SCHEME 1963

1. DEFINITIONS

- (a) In this Scheme unless the context otherwise requires: “the Boards” means the Railways Board and the other Boards;
- “the Committee” means the British Transport Police Committee constituted under this Scheme;
- “the discipline regulations” means the British Transport Police Force (Discipline) (Senior Officers) Regulations 1985 made on 19 April 1985 or any other regulations substituted therefor with the consent of the Police Complaints Authority;
- “the Force” means the force of transport police organised under this Scheme;
- “the other Boards” means London Regional Transport and such other operators of public transport undertakings (except other users of the Force) as may be authorised to request the provision of a police service for their respective undertakings by the Force or any of them as the context may require;
- “other user of the Force” means a person with whom the Railways Board has made an agreement for making the services of the Force available to that person under article 2A of this Scheme;
- “the Railways Board” means the British Railways Board;
- “senior officer” means the chief constable, the deputy chief constable or an assistant chief constable of the Force;
- “transport police” means constables appointed or deemed to be appointed under section 53 of the British Transport Commission Act 1949.
- (b) The Interpretation Act 1978 shall apply for the interpretation of this Scheme as it applies for the interpretation of an Act of Parliament.

2. BRITISH TRANSPORT POLICE FORCE

- (a) The transport police shall be organised in a single force for the Railways Board but the services of the Force shall subject to the provisions of this Scheme be made available by the Railways Board to meet the reasonable requirements (if any) of the other Boards and the Railways Board shall use their best endeavours to meet the reasonable requirements of those Boards.
- (b) The Force shall be known as “The British Transport Police Force”.
- (c) Subject to the provisions of this Scheme all transport police hereafter appointed shall be appointed and employed by the Railways Board and all transport police now appointed shall continue to be employed by the Railways Board.
- (d) The property and rights and liabilities which vested in the Railways Board under Section 31(2) of the Transport Act 1962 as being comprised in that part of the undertaking of the British Transport Commission which constituted the British Transport Commission Police Force shall so far as the same are still vested in the Railways Board continue to be so vested but the Railways Board and each of the other Boards may from time to time enter into agreements for the transfer to such other Board of any of the said property in any case where in the opinion of the Boards concerned such transfer is necessary or convenient for the purposes of this Scheme.

2A. OTHER USERS OF THE FORCE

- (a) The Railways Board may make an agreement with any person falling within any class or description of person specified for the purposes of this paragraph in paragraph (b) below for making the services of the Force available to that person for such period, to such extent, and on such terms, as may be specified in the agreement.
- (b) The classes or descriptions of person specified for the purposes of paragraph (a) above are—
 - (i) any person who is a licence holder within the meaning of Part I of the Railways Act 1993;
 - (ii) any person who has the benefit of a licence exemption within the meaning of that Part of that Act;
 - (iii) any person who has the management of, or carries on an undertaking which includes, or includes the provision of transport services on, one or more of the following
 - (a) a tramway,
 - (b) a transport system which uses another mode of guided transport,
 - (c) a trolley vehicle system;not being a person with whom the Railways Board may make an agreement for making the services of the Force available to that person under an enactment other than this article.
- (c) In paragraph (b)(iii) above “guided transport”, “tramway” and “trolley vehicle system” have the meaning given by section 67(1) of the Transport and Works Act 1992.

3. CHIEF CONSTABLE AND OTHER SENIOR OFFICERS

- (a) The chief constable of the Force shall be a person appointed to that office by the Committee.
- (b) The Force shall be under the direction and control of the chief constable.
- (c) The establishment of the Force shall include a person holding the rank of deputy chief constable and may include one or more persons holding the rank of assistant chief constable.
- (d) The deputy chief constable shall have all the powers and duties of the chief constable:
 - (i) during the absence, incapacity or suspension from duty of the chief constable; and
 - (ii) during any vacancy in the office of chief constable;but he shall not have power to act by virtue of this provision for any continuous period exceeding three months, except with the consent of the Committee.
- (e) Appointments or promotions to the ranks of deputy chief constable and assistant chief constable shall be made by the Committee after consultation with the chief constable.

3A. RETIREMENT OF SENIOR OFFICERS

- (a) Subject to the provisions of this article, and without prejudice to the discipline regulations, the Committee may call upon a senior officer to retire in the interests of efficiency but the Committee shall give the senior officer an opportunity to make representations.
- (b) Where representations are made under this article the Committee shall appoint one or more persons (who or, where more than one person is appointed, one of whom shall be a person who is not an officer of police or of a government department) to hold an inquiry and report to them and the Committee shall consider the representations and the report made under this paragraph.
- (c) The costs reasonably incurred by a senior officer in respect of an inquiry held under this article shall be reimbursed by the Committee.

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- (d) A senior officer who is called upon to retire as aforesaid shall retire on such date as the Committee may specify or on such earlier date as may be agreed upon between him and the Committee.

3B. REPORTS BY CHIEF CONSTABLE ETC

- (a) The chief constable shall, not later than 30 June each year, submit in writing to the Committee a general report on the activities of the Force during the twelve months ending on the previous 31 March.
- (b) The chief constable shall, whenever so required by the Committee in writing, submit to the Committee a written report on such matters as may be specified in the requirement, being matters connected with the activities of the Force.
- (c) Regulation 6 of the Prosecution of Offences Regulations 1978 (which provides that chief officers of police in England and Wales shall give to the Director of Public Prosecutions information with respect to certain offences) shall apply to the chief constable as if he were a chief officer of police within the meaning of the Police Act 1964.
- (d) In relation to police matters arising in England and Wales, the chief constable shall have regard to any guidelines relevant to such matters which may be issued from time to time by the Home Secretary, as if he were a chief officer of police within the meaning of the Police Act 1964.
- (e) In relation to police matters arising in Scotland, the chief constable shall comply or ensure compliance with any instructions, and have regard to any guidelines, relevant to such matters which may be issued from time to time by—
 - (i) the Lord Advocate;
 - (ii) the sheriff principal having jurisdiction in the place to which the matters in question relate; or
 - (iii) the appropriate prosecutor in relation to the investigation of offences in that place, as if he were a chief constable or, as the case may be, the chief constable of the police force within whose area the sheriff principal has jurisdiction, within the meaning of the Police (Scotland) Act 1967 or the Criminal Procedure (Scotland) Act 1975.

3C. SPECIAL CONSTABLES

- (a) Subject to and in accordance with the regulations listed in Part I of the Table to paragraph (c) below in relation to appointments in England and Wales, and subject to and in accordance with the regulations listed in Part II of that Table in relation to appointments in Scotland, the chief constable may, after consultation with the Committee, recommend such persons as he may think fit for appointment as special constables.
- (b) Subject to the said regulations so far as applicable, all special constables shall be under the direction and control of the chief constable, and may be removed from office by the chief constable.
- (c) The regulations listed in the Table to this paragraph shall have effect so far as applicable, subject to such adaptations as may be necessary for that purpose, as if special constables appointed in pursuance of this article were special constables for the purposes of those regulations.

Table

PART I—ENGLAND AND WALES	
S.I. 1965 No. 536	The Special Constables Regulations 1965

PART I—ENGLAND AND WALES	
S.I. 1968 No. 899	The Special Constables (Amendment) Regulations 1968
PART II—SCOTLAND	
S.I. 1966 No. 97 (S.7)	The Police (Special Constables) (Scotland) Regulations 1966

4. BRITISH TRANSPORT POLICE COMMITTEE

- (a) There shall be a committee (to be known as “the British Transport Police Committee”) to whom the chief constable shall be responsible for the administration of the Force in accordance with the directions from time to time given to him by the Committee.
- (b) Subject to paragraph (ba) below, the Committee shall consist of a Chairman appointed by the Railways Board and not more than six other members appointed by that Board and one member each appointed by such of the other Boards requiring the services of the Force to be made available to them under this Scheme as may from time to time wish to appoint a member thereto. The Railways Board and such other Boards are in this Clause hereinafter collectively referred to as “the represented Boards”.
- (ba) In addition to members appointed under paragraph (b) above, any other user of the Force—
 - (i) which is or has at any time been a company wholly owned by the Crown within the meaning of the Railways Act 1993, and
 - (ii) which is an operator of a network within the meaning of Part I of that Act,

may appoint one member to the Committee, and where such a user appoints a member to the Committee any reference, in whatever terms, in the succeeding provisions of this article or article 6(a) below to the other Boards which require the services of the Force to be made available to them shall be deemed to include a reference to that user.

- (c) the terms of appointment of each member of the Committee shall be such as shall be agreed between the represented Boards.
- (ca) Of the members to be appointed by the Railways Board—
 - (i) at least one shall be appointed after consultation with the other represented Boards from among persons who have had wide experience of, or who have shown capacity in, the control or administration of police; and
 - (ii) one other shall be appointed after consultation with the Central Rail Users' Consultative Committee established under section 3 of the Railways Act 1993 from among persons who have had wide experience of the interests and concerns of users of railway services and facilities.
- (d) A member of the Committee shall hold office in accordance with the terms of his appointment and may at any time resign his membership by notice to the Board which appointed him and each of the represented Boards may (unless the terms of appointment otherwise provide) at any time remove any member appointed by that Board by notice to such member.
- (e) The Committee may act notwithstanding a vacancy among its members.
- (ea) In the event that a member of the Committee is prevented by exceptional circumstances from attending a meeting of the Committee, his place may be filled by a deputy who shall previously have been nominated, and whose nomination shall have been notified to the Committee, for that purpose by the Board who appointed that member.
- (f) The quorum of the Committee shall be four and subject thereto the Committee shall determine its own procedure.

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- (g) It shall be the duty of the Committee—
- (i) to supervise the administration of the Force by the Chief Constable on such lines as may from time to time be determined by the Committee, following consultation with the represented Boards, and to give to him all such directions as may from time to time be necessary for that purpose;
 - (ia) to secure the maintenance of an adequate and efficient police service by the Force for the areas within the jurisdiction of the Force defined in section 53(1) of the British Transport Commission Act 1949;
 - (ib) to determine the number of persons of each rank in the force which is to constitute the establishment of the force;
 - (ic) to provide and maintain such buildings, structures, premises, vehicles, apparatus, clothing and other equipment as may be required for the purposes of the Force;
 - (ii) to make recommendations to the represented Boards in respect of any matter relating to the Force;
 - (iii) to exercise on behalf and in the name of the Railways Board the powers of the Railways Board under section 53 of the British Transport Commission Act 1949; and
 - (iv) to do on behalf and in the name of the Railways Board all other things which may be necessary for performing their functions under this Scheme.
- (h) Notice of every decision of the Committee with respect to any matter relating to the Force shall be sent to each of the represented Boards who shall be deemed to have approved such decision unless they signify in writing to the Committee and all other represented Boards within seven days of receipt of such notice that they object thereto, and the Committee and the represented Boards shall give effect to any decision of the Committee which is approved or deemed to be approved as aforesaid. Effect shall not be given to any decision to which a represented Board have objected, unless the objection is withdrawn, but any represented Board may apply to the Minister after notice to the others for a determination of any matter arising out of the objection and the Committee and the represented Boards shall give effect to such determination.
- (i) The Railways Board shall appoint a secretary to the Committee.
 - (j) The Committee may appoint such civilian staff to assist the Force as they may determine.

5. EXPENSES OF THE FORCE

- (a) All expenses relating to the Force shall be borne by the Railways Board but the other Boards shall make such contribution towards those expenses as may be agreed between the Boards from time to time and the Railways Board shall be entitled to recover from the other Boards the amounts of their respective contributions.
- (b) Any other user of the Force shall pay to the Railways Board such fee, if any, as is provided for (and howsoever such fee is provided for) in the agreement by which the services of the Force are made available to that user by the Railways Board.

6. SETTLEMENT OF DISPUTES

- (a) If the Boards or the represented Boards (as the case may be) fail to agree upon any matter which is expressed in this Scheme to be the subject of agreement between them the matter shall be determined by the Minister upon the application of any of them after notice to the others and effect shall be given to such determination.
- (b) Any dispute in relation to the Force which arises between the Railways Board and any other user of the Force shall be determined by the Minister upon the application of either of them after notice to the other and effect shall be given to such determination.

CITATION ETC

7. This Scheme may be cited as “the British Transport Police Force Scheme 1963” and shall come into operation on the first day of January 1965.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the British Transport Police Force Scheme 1963, which makes provision for the organisation of the transport police, to take account of the reorganisation of the railways pursuant to the Railways Act 1993 (“the 1993 Act”). The principal amendments—

- (a) enable the British Railways Board (“the Board”), the employer of the transport police, to make agreements with various persons for making the services of the transport police available to those persons (article 4). The main class of person concerned is the class comprising new operators of rail services under the 1993 Act;
- (b) enable any dispute which arises between the Board and those persons in relation to the transport police to be determined by the Minister (article 8);
- (c) enable the body which has taken over responsibility for the management of the rail network from the Board to appoint a member to the British Transport Police Committee (which is responsible for the administration of the transport police) (article 6(a) and (b)).