

1962 No. 2714

TRANSPORT

PENSIONS

**The British Transport Reorganisation (Pensions of Employees)
(No. 1) Order 1962**

<i>Made</i>	12th December 1962
<i>Laid before Parliament</i>	27th December 1962
<i>Coming into Operation</i>	28th December 1962

The Minister of Transport, in exercise of his powers under sections 74 and 75 of, and paragraph 13 of Schedule 7 to, the Transport Act 1962(a), and of all other enabling powers, hereby makes the following Order :—

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on the 28th December 1962, and shall have effect from the 1st September 1962.

(2) This Order may be cited as the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1962.

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

“the Act” means the Transport Act 1962;

“the Boards” means the following bodies, namely:—

the British Railways Board,
the London Transport Board,
the British Transport Docks Board, and
the British Waterways Board,

and each of these bodies is referred to separately in this Order as a “Board”;

“the Commission” means the British Transport Commission;

“established scheme” means a pension scheme subsisting at the date of the passing of the Act and relating in whole or in part to the payment of pensions to, or in respect of, any employee of the Commission in connection with his employment as such an employee;

“the Holding Company” means the Transport Holding Company established by the Act;

“the Hotel Company” means the Hotel Company formed pursuant to section 33 (1) (a) of the Act;

“the Minister” means the Minister of Transport;

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

“the relevant employer”, in relation to a person who is a member or an employee of a Board, means that Board, in relation to a person who is a member or an employee of the Holding Company, means the Holding Company, and in relation to a person who is a director or an employee of the Hotel Company, means the Hotel Company;

“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 trust deed or other instrument made for the purposes of the scheme;

“the vesting date” means the date appointed by the Minister pursuant to section 31 of the Act.

(4) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Construction and effect of established schemes

2. Every established scheme shall be construed and have effect as if the provisions of Articles 3 to 6 inclusive of this Order were terms of the scheme, any other term thereof, whether express or implied, to the contrary notwithstanding; and each of the Boards, the Holding Company and the Hotel Company shall, for the purpose of giving effect to this Order, be bound by the terms of every established scheme so far as those terms relate to persons to whom any of Articles 3, 4 and 5 of this Order apply:

Provided that nothing in this Order shall have effect or be construed as appointing a Board, the Holding Company or the Hotel Company as a trustee of, or person administering, any pension scheme.

Persons not having pension rights under an established scheme and becoming employees of a Board, the Holding Company or the Hotel Company

3. Any person who has no pension rights under an established scheme and who, whether previously in the employment of the Commission or not, enters before the vesting date the employment of a Board, the Holding Company or the Hotel Company, 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 eligible to become a member of that scheme if, instead of entering such employment, he had been continuing in, or entering, comparable employment of the Commission, and if, in the case of a person entering the employment of the Hotel Company, the Hotel Company's undertaking had formed part of the Commission's undertaking until the vesting date.

Persons having pension rights under an established scheme and becoming Members of a Board or the Holding Company or directors of the Hotel Company

4. Where a person who has pension rights under an established scheme by virtue of his employment by the Commission, a Board, the Holding Company or the Hotel Company, becomes, before the vesting date, a member of a Board or of the Holding Company, or a director of the Hotel Company, 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 follows other service which is, or is to be treated as, service in the employment of such a body or of the Commission, the two periods of service were continuous.

Relevant employer to be bound by and to apply the terms of pension schemes

5. Where, at any time after the passing of the Act and before the vesting date, a person becomes a member or employee of a Board or of the Holding Company, or a director or employee of the Hotel Company, and, in consequence of the provisions of this Order or of paragraph 12 of Schedule 7 to the Act, that person becomes or continues to be a member of an established scheme, the following provisions shall apply:—

- (1) the relevant employer shall be bound by the terms of the established scheme in like manner and to the like extent, in relation both to that person and to the trustees of, or persons administering, the scheme, as the Commission is bound in relation to a person serving the Commission (whether as a member or employee) in a comparable capacity;
- (2) the Commission and the relevant employer, or either of them, shall make, in relation to that person, such arrangements with the trustees of, or persons administering, the scheme as may be necessary or expedient for the purpose of giving effect to this Order, and, in particular, when steps pursuant to Section 33 (1) (a) of the Act are taken, the Commission shall make such provision and do all such things as may be necessary or expedient for ensuring that the Hotel Company shall give effect to the provisions of this Order, where the Hotel Company is the relevant employer; and
- (3) the relevant employer shall pay to the trustees of, or persons administering, the scheme the following contributions and sums in relation to that person, that is to say:—
 - (a) where that person is a participant in the scheme, the contributions of that person, deducted in accordance with the terms of the scheme, together with such other sums in relation to his membership thereof as may be payable to the trustees of, or persons administering, the scheme in accordance with the terms thereof, and a proper proportion of the administrative expenses of the scheme attributable to his membership, and
 - (b) where that person is not a participant in the scheme, any sums payable in relation to his membership for the purposes of securing in respect of him the benefits of the scheme, together with a proper proportion of the administrative expenses of the scheme attributable to his membership.

Determination of questions

6. Any question arising between the Commission, a Board, the Holding Company, the Hotel Company and the trustees of, or persons administering, an established scheme, or arising between any of these bodies or individuals, in connection with the provisions of Article 5 of this Order shall in default of agreement between the parties concerned be determined by the Minister whose decision thereon shall be final.

Sealed with the Official Seal of the Minister of Transport the 12th December 1962.

(L.S.)

T. Padmore,
Secretary to the
Ministry of Transport.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order is made for the purpose of enabling certain persons who become employees of the British Railways Board, the London Transport Board, the British Transport Docks Board, the British Waterways Board, the Transport Holding Company or British Transport Hotels Limited to be eligible to join the pension schemes which they would have been entitled to join had they continued in or entered comparable employment in the British Transport Commission's undertaking (Article 3). Pensionable employees of the Commission who become members of the Boards, or of the Holding Company or directors of the Hotel Company will be entitled to count their service as members or directors for pension purposes under their pension schemes (Article 4).

Provision is also made for the Boards, the Holding Company and the Hotel Company to be bound by the terms of the pension schemes concerned and make appropriate contributions to the schemes (Article 5). Any questions arising between the parties are to be determined by the Minister (Article 6).

The provisions of the Order apply in relation to the period before the date on which all the property, rights and liabilities of the Commission are transferred to and vest in the Boards and the Holding Company.