



Transport Act 1980

1980 CHAPTER 34

PART II

TRANSFER OF UNDERTAKING OF NATIONAL FREIGHT CORPORATION

Transfer of undertaking of National Freight Corporation to a company limited by shares

45 Transfer of undertaking of National Freight Corporation.

- (1) On the appointed day the whole of the undertaking of the National Freight Corporation (in this Part referred to as “the Corporation”) shall, subject to subsection (4), be transferred by virtue of this section and without further assurance to a company formed for the purposes of this section and nominated under subsection (5) (in this Part referred to as “the successor company”).
- (2) In this Part “the appointed day” means such day as the Minister, with the consent of the Treasury, may appoint for the purposes of this section by order made by statutory instrument.
- (3) References in this Part to the undertaking of the Corporation are references to all the property, rights, liabilities and obligations of the Corporation, whether or not of such a nature that they could be assigned by the Corporation.
- ^{F1}(4)
- (5) The Minister may by order made by statutory instrument nominate for the purposes of this section a company formed and registered under the ^{M1}Companies Act 1948 which on the appointed day satisfies the following requirements, that is to say—
 - (a) it is a company limited by shares; and
 - (b) all the issued shares of the company are held by the Minister or by nominees for him.
- (6) This section shall have effect subject to the provisions of Schedule 6, being supplementary provisions with respect to the transfer by virtue of this section of

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the undertaking of the Corporation to the successor company; but nothing in those provisions shall be taken as prejudicing the general effect of subsection (1).

Textual Amendments
F1 S. 45(4) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 14

Modifications etc. (not altering text)
C1 1.10.1980 appointed under s. 45(2) by [S.I. 1980/1380](#), [art 3](#)

Marginal Citations
M1 1948 c. 38.

46 Initial government holding in successor company.

- ^{F2}(1)
- ^{F2}(2)
- ^{F2}(3)

- (4) Securities of the successor company held by the Minister or by nominees for him shall not be disposed of except with the consent of the Treasury and in such manner and on such terms as the Treasury may direct.
- (5) Subject to section 49(5), any dividends or other sums received by the Minister, or by nominees for him, in right of, on the disposal of, or otherwise in connection with, any securities of the successor company shall be paid into the Consolidated Fund.
- (6) ^{F3}

Textual Amendments
F2 S. 46(1)-(3) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 14
F3 S. 46(6) repealed by [Finance Act 1988 \(c. 39, SIF 114\)](#), s. 148, [Sch. 14 Part XI](#)

^{F4}**47 Transitional provisions with respect to reserves etc.**

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Textual Amendments
F4 S. 47 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 14

^{F5}**48 Dissolution and final accounts of National Freight Corporation.**

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Textual Amendments

F5 S. 48 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 14

Funding of certain pension obligations

49 Funding of relevant pension obligations.

- (1) If it appears to the Minister, having determined that all or any of the securities of the successor company held by him or by nominees for him should be offered for sale, that on the date on which those securities are to be so offered the relevant pension obligations will not be completely funded, he may, with the consent of the Treasury, undertake to make to the persons administering the relevant pension schemes such payments towards the funding of those obligations as he may specify in the undertaking.
- (2) An undertaking under subsection (1)—
 - (a) shall specify the aggregate amount of the payments which the Minister proposes to make in pursuance of the undertaking; and
 - (b) shall be conditional on the amount received by the Minister in consideration for the disposal of the securities being not less than that amount.
- (3) If the Minister gives an undertaking under subsection (1) but the condition mentioned in subsection (2) is not fulfilled, he may nevertheless, with the consent of the Treasury, make to the persons administering the relevant pension schemes such payments towards the funding of the relevant pension obligations as he thinks fit.
- (4) If no undertaking is given under subsection (1) but it appears to the Minister that, on the date on which all or any of the securities of the successor company held by him or by nominees for him are offered for sale, the relevant pension obligations are not completely funded, he may, with the consent of the Treasury, make to the persons administering the relevant pension schemes such payments towards the funding of those obligations as he thinks fit.
- (5) The aggregate amount of any payments made under subsection (3) or (4) shall not exceed the amount received in consideration for the disposal of the securities of the successor company; and the sums required for making any such payments or any payments in pursuance of an undertaking under subsection (1) shall be paid out of that amount.
- (6) In this section—
 - “the relevant pension obligations” has the meaning given by section 50;
 - “the relevant pension schemes” means the National Freight Corporation (Salaried Staff) Pension Fund, the National Freight Corporation (Wages Grades) Pension Fund and the N.F.C. (1978) Pension Fund;and for the purposes of this section the N.F.C. (1978) Pension Fund shall be taken to comprise the pension schemes specified or described in the Schedule to the Central Trust deed within the meaning of the ^{M2}National Freight Corporation (Central Trust) Order 1978.

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Marginal Citations

M2 S.I. 1978/1290.

50 Meaning of “the relevant pension obligations”.

- (1) In section 49 “the relevant pension obligations” means, subject to subsection (2)—
- (a) any obligations of the successor company or a relevant subsidiary which were owed on 1st April 1975 (“the operative date”) in connection with any of the relevant pension schemes; and
 - (b) where any such obligation is one to pay or secure the payment of pensions, any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases of those pensions; and
 - (c) any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases payable under any of the relevant pension schemes, being increases of pensions payable under any other pension scheme established before that date (whether one of the relevant pension schemes or not); and
 - (d) any obligation of the successor company or a relevant subsidiary which results from an amendment made to any of the relevant pension schemes by virtue of section 74 of the ^{M3}Transport Act 1962 after the operative date and before 1st January 1980.
- (2) The definition in subsection (1) does not include—
- (a) any obligation which, in relation to one of the relevant pension schemes, is a relevant pension obligation for the purposes of Part III;
 - (b) any obligation to pay or secure the payment of increases of pensions in excess of increases payable on official pensions under the ^{M4}Pensions (Increase) Act 1971 and section 59 of the ^{M5}Social Security Pensions Act 1975;
 - (c) any obligation to pay contributions in respect of current periods of employment of a member of a scheme;
 - (d) any obligation to pay expenses incurred in connection with a scheme which is specifically imposed on the body by which it is owed;
 - (e) any obligation owed by a body in their capacity as the trustees of a scheme or the persons administering a scheme; and
 - (f) any obligation in respect of which the body by which it is owed have a right to indemnified by any other body.
- (3) In this section—
- “pension”, in relation to any of the relevant pension schemes, has the same meaning as in Part III;
- “the relevant pension schemes” has the same meaning as in section 49;
- “relevant subsidiary” means any subsidiary of the successor company other than National Carriers Limited and any subsidiary of National Carriers Limited;
- “subsidiary” has the same meaning as in the ^{M6}Transport Act 1962.
- (4) For the purposes of this section—
- (a) any increase in an obligation which results from an amendment made to a scheme after the operative date shall be treated as a separate obligation; and

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- (b) where at any time, whether before or after the operative date, any pensions or increases payable under any of the relevant pension schemes are or have been paid by any person, that person shall be treated as being or having been under an obligation at that time to make those payments.

Marginal Citations

- M3** 1962 c. 46.
M4 1971 c. 56.
M5 1975 c. 60.
M6 1962 c. 46.

Supplementary

51 Interpretation of Part II and consequential amendments.

- (1) In this Part—
“the appointed day” has the meaning given by section 45(2);
“the Corporation” has the meaning given by section 45(1);
“securities” of the successor company includes shares, debentures, debenture stock, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;
“shares” includes stock;
“the successor company” has the meaning given by section 45(1);
and references to the undertaking of the Corporation shall be construed in accordance with section 45(3).
- (2) The enactments mentioned in Schedule 7 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Part.

Modifications etc. (not altering text)

- C2** The text of ss. 34, 36, 43, 51(2), 65, 69, Sch. 4, Sch. 7, Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Changes to legislation:

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