Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication.* ***Read more***

STATUTORY INSTRUMENTS

1971 No. 629

The British Waterways Board (Alteration of Pension Schemes) Order 1971

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on the 13th May 1971, and may be cited as the British Waterways Board (Alteration of Pension Schemes) Order 1971.

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

"the Board" means the British Waterways Board;

"funded scheme" means a pension scheme (not being an insurance scheme) where the pensions are payable out of a fund held by any person for the purpose of the scheme;

"insurance scheme" means a pension scheme where the pensions are provided by means of contracts or policies made or effected with an insurance company carrying on life assurance business within the meaning of the Insurance Companies Act 1958 (including contracts or policies made or effected with such a company for the purpose of implementing any form of private superannuation fund);

"the Male Wages Grades Scheme" means the pension scheme established by the British Transport Commission (Male Wages Grades Pensions) Regulations 1954 (**1**), as amended (**2**), (as that scheme now has effect subject to the provisions of any Order made under section 74 of the Transport Act 1962);

"the New Fund" means the British Waterways Board (Wages Grades) Pension Scheme which is a funded pension scheme established by the Board, with the consent of the Secretary of State, under the terms of an Interim Trust Deed executed by the Board on the 1st April 1971;

"the persons administering", in relation to a pension scheme, means the persons responsible for administering the scheme under the terms thereof, and includes the trustees (if any) of the scheme;

"the service" means whole time employment with the Board or with subsidiary of the Board; and

"term", in relation to a pension scheme to which this Order applies, 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.

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

Application of Order

2.—(1) This Order shall apply to the New Fund, the Male Wages Grades Scheme and the other pension schemes listed respectively in Schedules 1 and 2 to this Order.

(**1**) (1954 I, p. 175).
(**2**) S.I. 1957/1455, 1960/784 (1957 I, p. 177; 1960 I, p. 430).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication.* ***Read more***

(2) A pension scheme to which this Order applies shall be construed and have effect as if the relevant provisions of this Order were terms of the scheme, any other term thereof, whether express or implied, to the contrary notwithstanding.

Application of interavailability provisions to New Fund

3. The provisions of the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964(**3**) (so far as applicable) and of Articles 3 and 4 of the British Transport (Pensions of Employees) (No. 1) Order 1969 (**4**) (which relate to the interavailability of pension schemes in the publicly owned transport industry) shall on and after 14th May 1971 apply in relation to the New Fund as if that fund were an established scheme as defined in Article 2 of the said (No. 1) Order of 1969.

Alterations in the terms of the Male Wages Grades Scheme

4.—(1) This Article shall apply to the Male Wages Grades Scheme.

(2) Any person in the service who immediately before the 14th May 1971 is a member of the Male Wages Grades Scheme and who becomes a member of the New Fund on or after that date shall, on becoming such a member, cease to be a member of the Male Wages Grades Scheme.

(3) The terms of the Male Wages Grades Scheme which require persons to become members of Section B of that Scheme shall not apply to—

(a) any person referred to in paragraph (2) of this Article, or

(b) any other person who becomes a member of the New Fund on or after 14th May 1971.

(4) Any person who becomes a member of the New Fund on or after the 14th May 1971 shall at all times after becoming a member thereof be ineligible for membership of either Section A or Section B of the Male Wages Grades Scheme.

(5) Where a person ceases to be a member of the Male Wages Grades Scheme under the foregoing provisions of this Article, the New Fund shall be credited by the Board with a sum equal to the contributions paid by such person to the Male Wages Grades Scheme.

(6) Where under the foregoing provisions of this Article a person who has a right of re-admission to the Male Wages Grades Scheme becomes ineligible for membership thereof, that right of re-admission shall terminate.

Alterations in the terms of certain schemes for providing pensions

5.—(1) This Article shall apply to the pension schemes listed in Schedule 1 to this Order.

(2) A person who becomes a member of the New Fund on or after the 14th May 1971 shall be ineligible for admission to a pension scheme to which this Article applies.

(3) Where a member of a pension scheme to which this Article applies becomes a member of the New Fund on or after the 14th May 1971, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall cease to be a member of that pension scheme, and (except as hereinafter provided) his liability (if any) to pay contributions to, and his right to receive benefit from, that scheme shall cease; and

(b) as soon as may be after that date the persons administering that pension scheme shall pay to the New Fund an appropriate transfer value in respect of the accrued pension rights of that member in that scheme.

(**3**) (1964 II, p. 3034).
(**4**) (1969 III, p. 5668)

(4) Where under the foregoing provisions of this Article a person who has a right of re-admission to a pension scheme to which this Article applies becomes ineligible for membership thereof, that right of re-admission shall terminate.

Alterations in the terms of certain insurance schemes

6.—(1) This Article shall apply to the pension schemes listed in Schedule 2 to this Order.

(2) Where a member of a pension scheme to which this Article applies becomes a member of the New Fund on or after the 14th May 1971, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall (subject to this Order) cease to be liable to pay contributions to that scheme; and

(b) as soon as may be after that date the Board shall make such arrangements as may be appropriate to secure to that member by means of non-assignable and non-commutable insurance policies his accrued pension rights in that scheme.

Ascertainment of transfer values

7.—(1) Where under any of the foregoing provisions of this Order there falls to be paid in relation to a member of a pension scheme to which this Order applies a transfer value in respect of his accrued pension rights in that scheme, then—

(a) if the scheme is a funded scheme, the amount to be paid shall be ascertained by first determining the portion of the funds of that scheme properly attributable to the accrued pension rights of that member in that scheme and then by deducting therefrom such sums as may be necessary to cover the cost actually incurred by the persons administering that scheme in making the apportionment and the payment and also an amount equal to any income tax which may then become payable by virtue of regulations made, or having effect as if made, under section 208 of the Income and Corporation Taxes Act 1970

(b) if the scheme is not a funded scheme, the amount to be paid shall be ascertained by first determining a sum representing the value of the accrued pension rights of that member in that scheme and then by deducting therefrom such sum as may be necessary to cover the cost actually incurred by the persons administering that scheme in making the determination and the payment.

(2) Any payment of a transfer value under any provision of this Order may take the form of a transfer of securities, deposits or other assets, valued as at the date of the transfer, and any question whether a transfer value shall be paid in cash or in the form of such a transfer as aforesaid shall be determined in each case when the transfer value falls to be paid.

Consequential provisions

8.—(1) Where under the foregoing provisions of this Order a person ceases to be a member of a pension scheme to which this Order applies, or otherwise ceases to be liable to pay contributions to that scheme, such cessation shall be without prejudice to the obligation of that person to pay any outstanding contributions to that scheme in respect of any period before such cessation and at the rate appropriate to that period, or to the right of his employer to deduct such contributions from his emoluments.

(2) Where under the foregoing provisions of this Order a person ceases to be a member of a pension scheme to which this Order applies, his rights to benefit from that scheme shall, except as otherwise provided in this Order, terminate with the cessation of his membership of that scheme.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication.* ***Read more***

Determination of questions

9. Where under the foregoing provisions of this Order any matter or thing is to be determined in relation to a member of a pension scheme to which this Order applies who becomes a member of the New Fund, that matter or thing shall be determined by agreement between the persons administering that pension scheme on the one hand and the persons administering the New Fund on the other hand, or in default of such agreement, by the Secretary of State.

Safeguarding of existing rights

10. No person who is a member of, or has a right of re-admission to, a pension scheme to which this Order applies (other than the New Fund) shall be required by a term of his employment in the service to become a member of the New Fund.

Signed by authority of the Secretary of State 8th April 1971.

John Peyton
Minister for Transport Industries
Department of the Environment