
STATUTORY INSTRUMENTS

1977 No. 599 (N.I. 10)

NORTHERN IRELAND

The Transport (Northern Ireland) Order 1977

Laid before Parliament in draft

Made

30th March 1977

Coming into operation in accordance with Article 1 (2).

ARRANGEMENT OF ORDER

Article

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At the Court of Saint James, the 30th day of March 1977

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953(a), was pleased, by Letters Patent dated the 3rd day of February 1977, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorised thereto by the said Letters Patent, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(b), and of all other powers enabling Her Majesty in that behalf, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

(a) 1973 c. 16; 1943 c. 42; 1953 c. 1 (2 & 3 Eliz. 2).

(b) 1974 c. 28.

Title, commencement and interpretation

1.—(1) This Order may be cited as the Transport (Northern Ireland) Order 1977.

(2) This Article and Article 2 shall come into operation forthwith and the other provisions of this Order shall come into operation on such day or days as the Head of the Department of the Environment may, by order, appoint.

(3) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to paragraphs (1) and (2) and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(4) In this Order—

“the Department” means the Department of the Environment;

“the Holding Company” means the Northern Ireland Transport Holding Company established by section 47 (1) of the Transport Act (Northern Ireland) 1967 (b);

and any expression used in this Order which is defined in that Act shall have the meaning as so defined.

Transfer of functions, staff, etc., from Holding Company to subsidiary company

2.—(1) The Holding Company may, with the consent of the Department, transfer to a subsidiary company formed by it under section 48 (1) (i) of the Transport Act (Northern Ireland) 1967—

(a) all or any of the functions transferred to the Holding Company by the Local Government (Transfer of Belfast Corporation Transport Functions) Order (Northern Ireland) 1973 (c);

(b) any officer or servant of the Holding Company employed wholly or mainly in the discharge of functions transferred under sub-paragraph (a);

(c) any vehicles, plant, machinery, fixtures, fittings and other equipment which the subsidiary company may reasonably require to carry out the functions transferred to it under sub-paragraph (a)

and may let to the subsidiary company, at such rent and on such terms and conditions as the Holding Company and the subsidiary company may agree, any immovable property vested in the Holding Company which the subsidiary company may reasonably require to carry out the functions transferred to it under sub-paragraph (a).

(2) In the construction and for the purposes of any judgment, decree, order, award, deed, contract, bond, agreement, regulation, rule, bye-law, certificate or other document made before the date of a transfer under paragraph (1) any reference to or which is to be construed as a reference to the Holding Company shall, so far only as may be necessary for the purpose or in consequence of the transfer, be construed as a reference to the subsidiary company.

(3) The transfer shall not affect any order, regulation, rule, direction, instruction, approval, requirement or authorisation made or given or other thing done by the Belfast Corporation before 2nd April 1973 or by the Holding Company before the date of a transfer under paragraph (1), but any such matter shall so far as it relates to functions transferred under paragraph (1) and if in force immediately before the date of the transfer continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the subsidiary company.

(4) Anything commenced before 2nd April 1973 by or under the authority of the Belfast Corporation or before the date of a transfer under paragraph (1)

(a) 1954 c. 33 (N.I.). (b) 1967 c. 37 (N.I.). (c) S.R. (N.I.) 1973 No. 96.

by the Holding Company may so far as it relates to any functions transferred be carried on or completed by or under the authority of the subsidiary company.

(5) Any investigation, legal proceedings or remedy under any transferred provision in respect of any rights or liabilities transferred to the subsidiary company may be instituted, continued or enforced by or against the subsidiary company under the powers and provisions applicable thereto immediately before the date of the transfer.

(6) In the case of an officer or servant transferred under paragraph (1) to the employment of the subsidiary company—

- (a) he shall, for so long as he continues in that employment and until he is served with a statement in writing specifying new terms and conditions of employment, enjoy terms and conditions of employment (including conditions as to superannuation benefits) not less favourable than those he enjoyed immediately before the date of the transfer; and
- (b) the said new terms and conditions shall be such that, so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of the transfer, the scale of his remuneration and the other terms and conditions of his employment are, taken as a whole, not less favourable than those he enjoyed immediately before that date.

(7) A written statement given in accordance with section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (a) shall not be regarded as a statement of new terms and conditions of employment for the purposes of this Article unless the statement so indicates.

(8) Any question whether assets or liabilities are held, enjoyed or incurred before the date of the transfer by the Holding Company in connection with the functions transferred to the subsidiary company under paragraph (1) shall be determined by the Department and a certificate of the Holding Company that any assets or liabilities so held, enjoyed or incurred have been so transferred shall be conclusive evidence of such transfer.

(9) Any question as to whether an officer or servant is or was employed wholly or mainly in the discharge of functions transferred under paragraph (1) or whether the duties of a transferred officer or servant are reasonably comparable or whether terms and conditions taken as a whole are less favourable shall be reported by the Holding Company or by such officer or servant to the Department of Manpower Services, and, if a dispute so reported is not otherwise disposed of, that Department shall refer it for determination by a tribunal appointed for the purpose. The statement of new terms and conditions of employment shall contain information that any question shall be so determined and as to the person and address to whom any question should be reported.

(10) The Department may, with the approval of the Department of the Civil Service make regulations, subject to negative resolution, providing for the payment by the Department, on such terms and subject to such conditions as may be specified in the regulations, of compensation to, or in respect of, any person who suffers subsequent to his transfer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to any provision of this Article or who on grounds which the Department considers reasonable is unable or unwilling to accept employment with a subsidiary company to which he has been transferred.

(11) Section 13 of the Transport Act (Northern Ireland) 1967 (special provision as to the carriage of passengers and their luggage by road within the

(a) 1965 c. 19 (N.I.).

transport area of the Belfast Corporation and the Londonderry Corporation) is hereby repealed.

Grants to Holding Company

3. The Department may, with the approval of the Department of Finance make grants to the Holding Company—

- (a) in respect of any deficit in its revenue account or in the revenue account of a subsidiary company;
- (b) towards any capital expenditure on the provision of any building or related works;
- (c) towards the cost of the acquisition of any property authorised by any statutory provision and towards loan charges on money borrowed for the purposes of any such acquisition;
- (d) for the purpose of enabling it to discharge obligations transferred to it by the Local Government (Transfer of Belfast Corporation Transport Functions) Order (Northern Ireland) 1973 in respect of pensions and compensation to former employees of the Belfast Corporation.

Grants towards duty charged on bus fuel

4. In relation to fuel used in operating any bus service on or after 12th February 1974, subsection (2) of section 14 of the Finance Act (Northern Ireland) 1966 (a) shall have effect as if for the words from “but” onwards (which specify the maximum amount of any grant under subsection (1) of that section by the Department of the Environment to the operator of a bus service towards defraying customs or excise duties charged on bus fuel) there were substituted (instead of the words substituted by section 18 (2) of the Finance Act (Northern Ireland) 1969 (b)) the words “but the amount of a grant shall not exceed such sums for every gallon of fuel used or estimated to have been used in operating the bus service during the period to which the grant relates as the Department of Finance may from time to time approve, being a sum not greater than the rate per gallon of the duty of excise chargeable on hydrocarbon oil produced in the United Kingdom at the date of use of the fuel, including any addition to that duty by virtue of an order under section 9 of the Finance Act 1961.”.

Concessionary fares and grants in respect thereof

5.—(1) The Department of the Environment may with the approval of the Department of Finance enter into an agreement with passenger transport undertakings whereby the undertakings charge such concessionary fares, or accept such tokens for the payment of fares, to such categories of passengers as are specified in the agreement.

(2) Where an agreement is entered into under subsection (1), the Department may pay to the undertakings a grant of such amount as may be agreed between the Department and the undertakings and approved by the Department of Finance.

Grants towards capital expenditure incurred by subsidiary company of Holding Company providing road passenger transport services

6.—(1) The Department may, with the approval of the Department of Finance, make in such cases as it thinks fit a grant to a subsidiary company of the Holding Company providing road passenger transport services towards approved capital expenditure incurred or to be incurred by that company—

- (a) in providing a new vehicle of a type approved for the purpose of this Article by the Department, being a vehicle which is provided for use by that company wholly or mainly as a stage carriage in Northern Ireland

(a) 1966 c. 21 (N.I.).

(b) 1969 c. 18 (N.I.).

and which first becomes available to that company for such use on or after such date as the Department may determine;
(b) in providing, improving or developing facilities for public road passenger transport in Northern Ireland.

(2) In paragraph (1)—

“approved capital expenditure” means expenditure appearing to the Department to be of a capital nature and approved by it for the purpose of grant under this Article;

“expenditure” in relation to the provision by a company of a bus includes, where the bus is provided by being manufactured or wholly or partly constructed by that company, such sum as appears to the Department to be properly attributable to its provision by the company in that manner;

“new” means unused and not second-hand.

Membership of Transport Users' Committee

7. The Transport Users' Committee established under subsection (1) of section 1 of the Transport Act (Northern Ireland) 1967 shall consist of such number of persons as the Head of the Department of the Environment may appoint thereto and accordingly in subsection (2) of that section the words “(not exceeding eleven)” shall cease to have effect.

Increase in borrowing power of Holding Company

8. The aggregate of the amounts of principal outstanding in respect of moneys borrowed by the Holding Company under paragraphs (a) and (b) of subsection (2) of section 51 of the Transport Act (Northern Ireland) 1967 shall not exceed ten million pounds and accordingly in subsection (3) of that section for the words “four million pounds” there shall be substituted the words “ten million pounds”.

Functions of Department in relation to railway company under certain transport regulations

9.—(1) The Department shall be the competent authority for Northern Ireland in relation to the Northern Ireland Railways Co. Ltd., or any company by which it is replaced, for the purposes of the relevant transport regulations and, as that authority, may give directions to the company imposing on it obligations of a general nature with respect to the operation of the whole or any part of its railway passenger system.

(2) It shall fall to the Department to make any payments which are required to be made to the company by any provision of those regulations and the Department may, subject to and in accordance with the provisions of those regulations, determine the manner of calculating, and the conditions applicable to, those payments.

(3) Any direction under paragraph (1) may be varied or revoked by subsequent directions thereunder.

(4) The obligations imposed by any directions under paragraph (1) shall not give rise to any form of duty or liability enforceable against the company by proceedings before any court to which the company would not otherwise be subject.

(5) In this Article “the relevant transport regulations” means Council Regulation (EEC) No. 1191/69 (a) on public service obligations in transport and

(a) O.J. No.L156, 28. 6. 1969, p. 1 (O.J./S.E. 1969 (I), p. 276).

Council Regulation (EEC) No. 1192/69 (a) on common rules with respect to the financial status of railway undertakings and any regulations amending or extending those regulations.

Regulations as to passengers on public service vehicles

10.—(1) Without prejudice to any other power conferred by section 61 (1) of the Road Traffic Act (Northern Ireland) 1970 (b) (power of Department to make regulations applying to public service vehicles generally or to public service vehicles of a particular class) regulations made under that section may—

- (a) require a passenger—
 - (i) to declare, if so requested by the driver or conductor, the journey he intends to take or has taken in the vehicle, and pay the fare for the whole of such journey and to accept any ticket provided therefor; or
 - (ii) require a passenger to pay on entering the vehicle the correct fare whether by tokens or otherwise for the journey he intends taking;
- (b) require, on demand being made for the purpose by the driver or conductor or other person authorised by the licensee of the vehicle, production during the journey by the holder thereof of any ticket issued to him;
- (c) require the surrender by the holder thereof on the expiring of the period for which it is issued of a ticket issued by him;
- (d) require a passenger who is reasonably suspected by the driver or conductor of contravening the regulations to give his name and address to a police constable or the driver or conductor;
- (e) require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;

and any person who fails to comply with such a request or following a request under paragraph (d) does not give his correct name and address shall be guilty of a contravention of the regulations.

- (2) If any person—
 - (a) travels or attempts to travel on a public service vehicle without paying the correct fare and with intent to avoid payment thereof; or
 - (b) having paid his fare for a certain distance on a public service vehicle, knowingly proceeds by that vehicle beyond that distance without paying the additional fare and with intent to avoid payment thereof; or
 - (c) having failed to pay his fare on a public service vehicle, gives, in reply to a request by the driver or conductor of the vehicle or other authorised person or a member of the Royal Ulster Constabulary, a false name or address,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25 or for a second or subsequent offence a fine not exceeding £50.

Increase of fines

11.—(1) The maximum penalty for improper use of means of communication between passengers on a train and servants of the railway undertaking shall be increased from £5 to £25 and accordingly in section 22 of the Regulation of Railways Act 1868 (c) for the words “five pounds” there shall be substituted the words “twenty-five pounds”.

(a) O.J. No.L156. 28. 6. 1969, p. 8 (O.J./S.E. 1969 (I), p. 283).

(b) 1970 c. 2 (N.I.).

(c) 1868 c. 119.

(2) The maximum fines under section 5 of the Regulation of Railways Act 1889 (a) (penalty for avoiding payment of fares etc.) shall be increased to £25 and for a second or subsequent offence under subsection (3) of that section shall be increased to £50 and accordingly in subsections (1) and (3) of that section for the words "forty shillings" there shall be substituted "£25" and for the words "twenty pounds" there shall be substituted "£50".

Repeal

12. Sections 11, 12, 23, 26, 34 and 39 of the Regulation of Railways Act 1868 and the Railway Companies (Accounts and Returns) Act 1911 (b) are hereby repealed.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enables the Northern Ireland Transport Holding Company, with the consent of the Department of the Environment for Northern Ireland, to transfer to a subsidiary company all or any of the functions, staff etc., transferred to the Holding Company by the Local Government (Transfer of Belfast Corporation Transport Functions) Order (Northern Ireland) 1973, increases the borrowing powers of the Holding Company and provides for grants to the Holding Company and its subsidiaries. It also provides for concessionary fares on passenger transport undertakings, alters the maximum amount of grant towards duty charged on fuel used in operating bus services, provides for alteration in the membership of the Transport Users' Committee, increases certain fines for offences on railways, extends the power to make regulations regarding passengers on public service vehicles and confers functions on the Department of the Environment for Northern Ireland in relation to the railway company under certain E.E.C. transport regulations.

(a) 1889 c. 57.

(b) 1911 c. 34.

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