

1968 No. 825

TRANSPORT

PENSIONS AND COMPENSATION

**The British Transport (Transfers from British
Waterways Board Pension Schemes) Order 1968**

<i>Made</i> - - - -	20th May 1968
<i>Laid before Parliament</i>	29th May 1968
<i>Coming into Operation</i>	12th June 1968

The Minister of Transport, in exercise of his powers under section 74 of the Transport Act 1962(a) and of all other enabling powers, hereby makes the following Order:—

Commencement and citation

1.—(1) This Order shall come into operation on 12th June 1968, and shall have effect from 1st April 1965.

(2) This Order may be cited as the British Transport (Transfers from British Waterways Board Pension Schemes) Order 1968.

Interpretation

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

(2) In this Order—

“an approved pension scheme” means a pension scheme approved in whole or in part by the Commissioners of Inland Revenue either under section 379 of the Income Tax Act 1952(c) or for the purposes of this Order;

“the Board Schemes” means the following pension schemes, being schemes in relation to which rights, liabilities and functions are vested in the British Waterways Board, namely—

Cheshire County Council Superannuation Fund—Divided;

Grand Union Canal Company Superannuation Fund;

Nottingham Corporation Superannuation Fund—Divided;

Caledonian and Crinan Canals—Employees’ Scheme;

Lee Conservancy Board—Employees’ Scheme,

and a “Board Scheme” means one of those schemes;

(a) 1962 c. 46.

(b) 1889 c. 63.

(c) 1952 c. 10.

“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 transferring scheme” and “the receiving scheme”, in relation to a person to whom this Order applies, mean respectively the Board Scheme of which he was a member immediately before he ceased to be employed by the British Waterways Board and the approved scheme in which he begins to participate in connection with the other employment entered by him.

Pension Schemes Affected

3.—(1) The provisions of this Order shall have effect—

- (a) as respects the Board Schemes, so as to enable the persons administering each of those schemes to make transfer value payments as hereinafter provided, and
- (b) as respects other pension schemes, so as to enable the persons administering any such scheme to receive and apply transfer value payments made as hereinafter provided.

(2) Each of the Board Schemes shall be construed and have effect as if the provisions of this Order were terms of the scheme, any other term thereof, whether expressed or implied, to the contrary notwithstanding.

Persons to whom the Order applies

4. This Order shall apply to any person who—

- (a) being a member of a Board Scheme in the employment of the British Waterways Board, ceases to be in such employment at any time after the date from which this Order has effect and in consequence thereof ceases to be eligible to participate in that scheme and does not receive any benefit from that scheme other than a return of contributions (with or without interest), and
- (b) within 12 months after ceasing to be so employed, or such longer period as the persons administering that Board Scheme may in any particular case allow, enters other employment and begins to participate in an approved pension scheme in connection with that employment.

Transfer value payments

5.—(1) If a person to whom this Order applies, within 3 months after the date on which he entered such other employment as aforesaid or within 6 months after the date of the coming into operation of this Order (whichever period last expires), or within such longer period as the persons administering the transferring scheme may in any particular case allow, gives notice in writing to the persons administering that scheme that he desires a transfer value payment to be made in respect of him under the provisions of this Order to the receiving scheme and within the same period, or within such longer period as the persons administering the receiving scheme may in any particular case allow, pays to the persons administering the receiving scheme an amount equal to the sum (if any) which was paid by the persons administering the transferring scheme to him by way of a return of contributions (other than voluntary contributions) and interest thereon on his ceasing to be eligible to participate in that scheme, then, as soon as may be after the said notice has been given and the said payment (if any) made, the persons administering the

transferring scheme shall, on being satisfied that the conditions prescribed in paragraph (2) of this Article are satisfied in relation to the receiving scheme, pay to the persons administering the receiving scheme a transfer value payment calculated in accordance with paragraph (3) of this Article.

(2) The prescribed conditions as respects a receiving scheme are:—

- (a) the scheme is an approved scheme, and
- (b) the scheme is a scheme under which the person entering it will be entitled to benefits which are equitable in all the circumstances of the case if a transfer value payment is made in respect of him under the provisions of this Order; and
- (c) the scheme is a scheme which will treat as an employer's contribution for the purpose thereof the amount (if any) by which any transfer value payment which may be made under the provisions of this Order in respect of the person entering it exceeds the aggregate of—
 - (i) the contributions actually paid by that person under the provisions of the transferring scheme,
 - (ii) any interest which under the terms of the transferring scheme would have been payable on these contributions if a refund thereof had been claimed by that person, and
 - (iii) in a case where that person has participated in another pension scheme before becoming a member of the transferring scheme and a transfer value had been paid to the persons administering the transferring scheme in respect of such previous participation, any sum which is for the purpose of the transferring scheme treated as that person's own contributions under such other pension scheme.

(3) The amount of the transfer value payment under the provisions of this Order shall be such sum as may be determined by the persons administering the transferring scheme, in consultation with an actuary appointed by them, to represent the value of the pension rights under that scheme of the person in question, having regard to the period or aggregate of periods of his service ranking for benefit thereunder, but reduced by the aggregate of the following—

- (a) the amount of any sum actually paid by the persons administering the transferring scheme to that person by way of a return of contributions and interest thereon on his ceasing to be eligible to participate therein, and
- (b) the amount of any income tax on that sum payable by virtue of regulations made under section 379 of the Income Tax Act 1952.

(4) Where a transfer value payment in respect of any person is made under the provisions of this Order by the persons administering the transferring scheme, no other benefit shall be granted to or in respect of that person under that scheme.

Sealed with the Official Seal of the Minister of Transport the 20th May 1968.

(L.S.)

Richard Marsh,
Minister of Transport.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the payment of transfer values in respect of employees of the British Waterways Board who are members of the five pension schemes mentioned in the Order and who, within 12 months (or such longer period as may be allowed) of leaving the Board's employment, enter other employment and become members of approved pension schemes in connection with that employment. The Order also states how the transfer values are to be calculated and prescribes the conditions to be satisfied by the pension schemes to which the payments are to be made. The Order has effect from 1st April 1965, by virtue of S.74 (7) of the Transport Act 1962.