

1970 No. 1298

TRANSPORT

PENSIONS AND COMPENSATION

The British Transport (Amalgamation of Railways' Pension Funds) (No. 2) Order 1970

<i>Made - - - -</i>	28th August 1970
<i>Laid before Parliament</i>	11th September 1970
<i>Coming into Operation</i>	14th September 1970

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

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on the 14th September 1970, and may be cited as the British Transport (Amalgamation of Railways' Pension Funds) (No. 2) Order 1970.

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

“the Amalgamated Fund” has the same meaning as in the No. 1 Order of 1970, and references to an existing section or Sectional Committee in relation to the Amalgamated Fund are references to a section or Sectional Committee as defined in that Order;

“the Board” means the British Railways 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 purposes 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(b) (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(c), as amended(d), (as that scheme now has effect subject to the provisions of any Order made by the Minister under section 74 of the Transport Act 1962);

“the Minister” means the Minister of Transport;

“the New Fund” means the New Section of the British Railways Superannuation Fund constituted and established by the Board, with the consent of

(a) 1962 c. 46.

(c) S.I. 1954/898 (1954 I, p. 175).

(b) 1958 c. 72.

(d) S.I. 1957/1455, 1960/784 (1957 I, p. 177; 1960 I, p. 430).

the Minister, under the terms of a Trust Deed executed by the Board on the 21st August 1970;

“the No. 1 Order of 1970” means the British Transport (Amalgamation of Railways’ Pension Funds) (No. 1) Order 1970(a);

“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 a 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(b) 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 Amalgamated Fund, the Male Wages Grades Scheme and the other pension schemes mentioned in this Order.

(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 expressed or implied, to the contrary notwithstanding.

Administration of the New Fund

3.—(1) The provisions of this Article shall have effect for co-ordinating the administrative arrangements applicable to the New Fund with those applicable to the Amalgamated Fund.

(2) The following provisions of the No. 1 Order of 1970, that is to say:—

(a) Article 6(1) to (3) and Schedule 2 (which relate to the constitution and functions of the Management Committee of the Amalgamated Fund),

(b) Schedules 3 and 4 (which relate to the general meetings of members of the Amalgamated Fund and the appointment and functions of officers of that fund) and Article 7(1) (in so far as it gives effect to Schedules 3 and 4),

shall (subject to this Order) have effect on and after the 14th September 1970 as if the New Fund were a section of the Amalgamated Fund, as if members of the New Fund were members of a section of the Amalgamated Fund and as if the Committee of the New Fund were a Sectional Committee for one of the sections of the Amalgamated Fund.

(3) The provisions of the British Transport Reorganisation (Pensions of Employees) (No. 1) Order 1964(c) (so far as applicable) and of Articles 3 and 4 of the British Transport (Pensions of Employees) (No. 1) Order 1969(d) (which relate to the interavailability of pension schemes in the publicly owned transport industry) shall on and after the 14th September 1970 apply in relation to the New Fund as they apply immediately before that date by virtue of Article 4(2) of the No. 1 Order of 1970 to the Amalgamated Fund.

(a) S.I. 1970/477 (1970 I, p. 1582).
(c) S.I. 1964/1329 (1964 II, p. 3034).

(b) 1889 c. 63.
(d) S.I. 1969/1824 (1969 III, p. 5668).

(4) Except as provided in this Article, the New Fund and the Amalgamated Fund shall be separate pension funds and the provisions of the No. 1 Order of 1970 shall not apply to the New Fund.

Amendments to the British Transport (Amalgamation of Railways' Pension Funds) (No. 1) Order 1970

4.—(1) For paragraph 1 of Schedule 2 to the No. 1 Order of 1970 (which relates to the constitution of the Management Committee) there shall be substituted the following:—

“1. The Management Committee shall consist of 20 persons, of whom 10 shall be Board's committee-men and 10 members' committee-men.”

(2) The Management Committee of the Amalgamated Fund shall, as soon as may be after the 14th September 1970, convene an Extraordinary Meeting of members of that fund for the purpose of the election of persons as contributors' or members' committee-men for the existing Sectional Committees to take the place of any persons who, on becoming members of the New Fund, have ceased to be members of the Amalgamated Fund and have, in consequence, ceased to be eligible to continue as such contributors' or members' committee-men. Until such election has taken place, the persons who immediately before the 14th September 1970 are the members of the Management Committee and the existing Sectional Committees may continue to act as such members notwithstanding that their eligibility to be such members may have ceased as aforesaid.

(3) The provisions of paragraph (1) of this Article shall have effect for the purpose of the application by Article 3 of this Order of certain provisions of the No. 1 Order of 1970 to the New Fund, but for the purpose of paragraph (2) of this Article the application of those provisions of the said Order to the New Fund shall be disregarded.

(4) For paragraph 4(1) of Schedule 5 to the No. 1 Order of 1970 (which relates to the accounts of the Amalgamated Fund) there shall be substituted the following:—

“(1) The annual income and expenditure accounts shall be made up separately for each section and the annual balance sheet shall be made up for the amalgamated fund as a whole.”

Alterations in the terms of the Male Wages Grades Scheme

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

(2) The terms of the Male Wages Grades Scheme which require persons to become members of Section A of that Scheme shall not apply to any person who has entered the service before the 16th March 1970 but who, because the age and length of service conditions of the Male Wages Grades Scheme have not been satisfied in relation to him, has not become a member of Section A of that Scheme before the 14th September 1970 and who on or before the date on which those conditions are satisfied in relation to him is accepted for membership of the New Fund.

(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 the 14th September 1970.

(4) Any person in the service who immediately before the 14th September

1970 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.

(5) Any person who becomes a member of the New Fund on or after the 14th September 1970 shall at all times after becoming a member thereof be ineligible for membership of either Section of the Male Wages Grades Scheme.

(6) 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 with a sum equal to the contributions paid by such person to the Male Wages Grades Scheme.

(7) 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 the Amalgamated Fund and of certain other schemes for providing pensions

6.—(1) This Article shall apply to the Amalgamated Fund and to the other 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 September 1970 shall, so long as he is a contributing member of the New Fund, 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 September 1970, 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 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.

(4) Where by reason of the foregoing provisions of this Article a person ceases to be a member of the Railway Clearing System Superannuation Fund and immediately before that cessation he was a member of the Committee of that fund, he may, notwithstanding that cessation, continue to act as a member of the said Committee for a period not exceeding three years from the date of that cessation, but subject, however, to all the other provisions applicable to the office of member of that Committee.

Alterations in the terms of certain schemes for providing pensions and other benefits

7.—(1) This Article shall apply to the pension schemes listed in column (1) of 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 September 1970, the following provisions shall have effect:—

(a) upon the date of his admission to membership of the New Fund he shall cease to be entitled to receive from that scheme any benefit of the

type indicated in relation to that scheme in column (2) of the said Schedule and (subject to this Order) such adjustment as may be appropriate shall be made in respect of the liability of that member to pay contributions to that scheme after that date; 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 to benefits of the type so indicated.

Alterations in the terms of certain insurance schemes

8.—(1) This Article shall apply to the pension schemes listed in Schedule 3 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 September 1970, 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.

Alterations as respects ex-gratia schemes

9.—(1) Subject to paragraph (2) of this Article, where a person who has an expectation of benefit from a pension scheme of the Board which originated in a customary practice of a predecessor of the Board becomes a member of the New Fund on or after the 14th September 1970, his expectation of benefit from that scheme shall cease.

(2) Paragraph (1) of this Article shall not apply in relation to the supplementary pension scheme for officers and certain other salaried staff of the former London and North Eastern Railway Company who were in the Special Class (or equivalent) at the 31st December 1947.

Ascertainment and payment of transfer values

10.—(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 sum 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(a);
- (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

11.—(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 where under those provisions an adjustment falls to be made in respect of the liability of a member of such a pension scheme to pay contributions to that scheme, such cessation or adjustment (as the case may be) 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 or adjustment, and at the rate appropriate to that period, and 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.

Determination of questions

12.—(1) 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 Minister.

(2) In the application of paragraph (1) of this Article in a case where a member of one of the existing sections of the Amalgamated Fund becomes a member of the New Fund the relevant Sectional Committee of the Amalgamated Fund shall be regarded as the persons administering that Fund and the Committee of the New Fund shall be regarded as the persons administering the New Fund.

Safeguarding of existing rights

13. 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.

Sealed with the Official Seal of the Minister of Transport the 28th August 1970.

(L.S.)

John Peyton,
Minister of Transport.

SCHEDULE 1

SCHEMES FOR PROVIDING PENSIONS ONLY

Atlantic Steam Navigation Co. Ltd. Staff Pension Scheme.
 British Railways (Wages Grades) Pension Fund.
 Cheshire County Council Superannuation Fund—Divided.
 Grand Union Canal Company Superannuation Fund.
 Great Eastern Railway New Pension Supplemental Fund.
 North Eastern Railway Servants' Pension Society.
 Great Northern Railway Superannuation Fund.
 Greater London Council Superannuation Fund.
 Hay's Wharf Companies Superannuation Fund (Section B).
 Lee Conservancy Board—Employees' Scheme.
 London Transport (Administrative & Supervisory) Staff Superannuation Fund.
 National Freight Salaried Staff Pension Fund.
 Railway Clearing System Superannuation Fund.
 Scottish Bus Group Pension Fund.
 Superannuation Fund Association of Chaplins Ltd.
 Thos. Bantock & Co. Superannuation Fund.
 Thos. Cook & Son Staff Pension and Provident Fund.

SCHEDULE 2

SCHEMES FOR PROVIDING PENSIONS AND OTHER BENEFITS

(1) Title of Scheme	(2) Type of benefit ceasing to be payable
London, Midland and Scottish Railway (London and North Western) Provident and Pension Society	Benefits payable on retirement or death
London, Midland and Scottish Railway (North Staffordshire Section) Friendly Society	Benefit payable on retirement

SCHEDULE 3

INSURANCE SCHEMES

Hay's Wharf Cartage Co. Ltd., Pickfords Ltd. and Carter Paterson & Co. Ltd. and Associated Cartage Companies Pension Scheme.
 Joseph Nall & Company Ltd. Pension Scheme.
 Pullman Car Co. Salaried Staff Group Superannuation Fund and Life Assurance Scheme.
 The B.E.T. Group Pension Fund and Group Endowment Scheme.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision in Article 3 for co-ordinating the New Section of the British Railways Superannuation Fund with the existing sections of that fund which are regulated by the British Transport (Amalgamation of Railways' Pension Funds) (No. 1) Order 1970. It also provides (Article 4) for certain amendments to that Order. Provision is made in Articles 5 to 9 for regulating the position of persons who are members of the British Transport Commission (Male Wages Grades) Pension Scheme or of certain other pension schemes (including insurance and ex-gratia schemes) and who become members of the New Section of the British Railways Superannuation Fund, so as to avoid duplication of membership. The Order also provides (Articles 10-12) for the payment of transfer values to the New Section, for certain consequential matters and for the determination of questions. Article 13 safeguards existing rights.