

1973 No. 337

TRANSPORT

PENSIONS AND COMPENSATION

The Transport Holding Company (Pensions) Order 1973

<i>Made</i>	- - -	<i>28th February 1973</i>
<i>Laid before Parliament</i>		<i>7th March 1973</i>
<i>Coming into Operation</i>		<i>28th March 1973</i>

The Secretary of State for the Environment makes this Order in exercise of his powers under section 2 of the Transport Holding Company Act 1972(a) and of all other enabling powers:—

Commencement, citation and interpretation

1.—(1) This Order shall come into operation on 28th March 1973 and shall have effect from the 26th June 1972.

(2) This Order may be cited as the Transport Holding Company (Pensions) Order 1973.

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

“Cooks” means the company known as Thos. Cook & Son Limited (a company which ceased to be a subsidiary of the Transport Holding Company on the 26th June 1972);

“Cooks Pension Fund” means the pension fund established by Cooks and others for employees of Cooks and of their subsidiaries by means of an Interim Trust Deed dated the 4th April 1968 and a Trust Deed dated the 9th October 1970, both deeds being executed under the Common Seal of Cooks;

“the Holding Company” means the Transport Holding Company established under section 29 of the Transport Act 1962(b) or, in respect of any period after their dissolution, such person as may be designated by order of the Secretary of State under section 2(6) of the Transport Holding Company Act 1972 as being in his opinion the person to whom the relevant property, rights and liabilities of the Transport Holding Company have been transferred in pursuance of section 53 of the Transport Act 1968(c);

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

“a railway pension fund” means either the LNER Section or the GWR Section of the British Railways Superannuation Fund (an amalgamated pension fund constituted by the British Transport (Amalgamation of Railways’ Pension Funds) (No. 1) Order 1970(d)) and “the railway pension funds” means both of those sections of that fund;

(a) 1972 c. 14.
(c) 1968 c. 73.

(b) 1962 c. 46.
(d) S.I. 1970/477 (1970 I, p. 1582).

“term”, in relation to a pension fund to which this Order applies, includes any rule or provision of, or applicable to, the fund, or of any statutory provision relating to the fund, or of any deed or other instrument made for the purpose of the fund.

(4) Any reference in this Order to the accrued pension rights of a person in a pension fund is a reference to—

- (a) the accrued rights of that person in that fund, and
- (b) the rights which any other person may prospectively or contingently have in that fund by reason of the pensionable service which has given rise to the rights referred to in (a) above.

(5) The Interpretation Act 1889(a) 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 Cooks Pension Fund, to the railway pension funds and to any such pension fund of the Holding Company as is mentioned in Article 3(4) below.

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

Securing of accrued pension rights

3.—(1) This Article applies to any person who immediately before the 26th June 1972—

- (a) was in receipt of a pension from Cooks Pension Fund, or
- (b) was entitled, contingently on his attaining a specified age or fulfilling some other condition, to receive a pension from Cooks Pension Fund in respect of his employment in the service of Cooks, or of a subsidiary of Cooks, which had terminated before that date.

(2) Any person to whom this Article applies may before the 1st October 1973 by notice in writing to the Holding Company and to the persons administering Cooks Pension Fund elect to have his accrued pension rights in that fund preserved in accordance with the provisions of this Article.

(3) As soon as may be after the receipt by them of a notice under paragraph (2) above the persons administering Cooks Pension Fund shall pay to the Holding Company an appropriate transfer value in respect of the accrued pension rights in that fund of the person giving the notice.

(4) A transfer value payment received by the Holding Company under the provisions of this Article shall be applied by the Holding Company, either by payment to the persons administering a pension fund of theirs or in such other way as they may determine, so as to afford to the person or persons whose pension rights the transfer value payment represents benefits which correspond, as nearly as may be in all respects, to the benefits which would have been payable from Cooks Pension Fund if no election had been made under this Article and if Cooks Pension Fund had continued to afford pension benefits on the same terms as those in operation immediately before the 26th June 1972, and

the Holding Company shall secure that the person or persons whose pension rights the transfer value payment represents are afforded the benefits aforesaid.

(5) If any transfer value payment is made under paragraph (4) above to the persons administering a pension fund of the Holding Company, those persons shall be entitled to receive that payment on the terms indicated in that paragraph.

Transfer from railway pension funds

4. Where any person who immediately before the 26th June 1972 was a contributing member of a railway pension fund, such membership being membership in respect of current employment in the service of Cooks or of a subsidiary of Cooks, either—

- (a) before that date has elected to become a member of Cooks Pension Fund in respect of that employment in accordance with the relevant terms of that fund, or
- (b) on or after that date but before the 1st October 1973 elects in accordance with the relevant terms of Cooks Pension Fund to become in respect of that employment a member of Cooks Pension Fund on conditions appropriate to his case (notice of such election being given by him before that date to the persons administering the relevant railway pension fund),

then, as soon as may be after the coming into operation of this Order, or the date of that election (if later), the persons administering the relevant railway pension fund shall pay to the persons administering Cooks Pension Fund an appropriate transfer value in respect of the accrued pension rights of the person in question in that railway fund and the persons administering Cooks Pension Fund shall be entitled to receive that transfer value payment and the appropriate terms of Cooks Pension Fund shall apply.

Transfer value payments

5.—(1) Where under any of the foregoing provisions of this Order an appropriate transfer value in respect of the accrued pension rights of a person is payable by the persons administering a pension fund, the amount to be paid shall be determined, as at the time when the transfer value is payable, by first determining the portion of that fund properly attributable to the accrued pension rights in question and then by deducting therefrom an amount equal to any income tax which may then become payable in respect of such 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, in lieu of a payment of money, if the persons making and receiving the transfer so agree.

(3) Any reasonable expenditure incurred by persons administering a pension fund in determining and making any transfer value payment under the provisions of this Order shall be reimbursed to them on demand by the Holding Company.

Consequential provisions

6.—(1) Where under the provisions of this Order a transfer value payment is made in respect of the accrued pension rights of any person in a pension fund, then on the making of that payment—

- (a) that person shall cease to be a member of that fund, if his membership has not previously ceased, and

(b) the rights against that fund of that person, and of any other person having rights in that fund by reason of the pensionable service which has given rise to the accrued pension rights, shall cease.

(2) Cessation of a person's membership of a pension fund under paragraph (1) above shall be without prejudice to the obligation of that person to pay any outstanding contributions to that fund 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.

Deficiency payments in connection with railway pension funds

7.—(1) Any liability of Cooks to make to, or for remission to, the persons administering a railway pension fund any payments required by the terms of that Fund or of any Order under section 74 of the Transport Act 1962 applicable thereto (and in particular by Article 3 of the British Transport (Pensions of Employees) (No. 1) Order 1969(a) as applied by Article 4 of the British Transport (Amalgamation of Railways' Pension Funds) (No. 1) Order 1970) in connection with the persons specified in paragraph (2) below shall cease and determine, in so far as such liability did not cease when Cooks ceased to be a subsidiary of the Holding Company or has not been discharged since that date by payments made by or on behalf of Cooks, and the Holding Company shall make to the persons administering the railway fund in question such payments as are necessary to put that fund, so far as regards the persons specified in paragraph (2) below, in the position in which it would have been if Cooks had remained a subsidiary of the Holding Company and this Order had not been made.

(2) The persons referred to in paragraph (1) above are the persons who immediately before the 26th June 1972 were—

- (a) in receipt from a railway pension fund of a pension in respect of employment in the service of Cooks or of a subsidiary of Cooks, or
- (b) contributing members of a railway pension fund in respect of current employment in the service of Cooks or of a subsidiary of Cooks.

Determination of questions

8. Any question which arises under any of the provisions of this Order and which is not determined by agreement shall—

- (a) if it is a question arising solely between the Holding Company and the persons administering a railway pension fund, be determined by the Secretary of State, and
- (b) in any other case be determined by a single arbitrator in accordance with the provisions of the Arbitration Act 1950(b) or any statutory modification or re-enactment thereof for the time being in force.

Signed by authority of the Secretary of State.

John Peyton,
Minister for Transport Industries,
Department of the Environment.

28th February 1973.

(a) S.I. 1969/1824 (1969 III, p. 5668).

(b) 1950 c. 27.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision with respect to the pension rights of certain persons who are or have been employed by Thos. Cook and Son Ltd. or by a subsidiary of that company. The provision made is a consequence of the disposal by the Transport Holding Company of their shares in Thos. Cook and Son Ltd. on the 26th June 1972.

Article 3 enables persons in receipt of, or contingently entitled to, pensions from Cooks Pension Fund in respect of employment which has ceased, to have their pension rights preserved in the public sector by the Transport Holding Company.

Article 4 enables transfer values to be paid to Cooks Pension Fund by certain pension funds administered by the British Railways Board in respect of the accrued pension rights of persons who are employed by Thos. Cook and Son Ltd. or by a subsidiary of that company but who, immediately before the 26th June 1972, were members of a railway pension fund in connection with that employment.

Articles 5, 6 and 8 provide for the ascertainment of transfer values, for consequential matters and for the determination of questions.

Article 7 releases Thos. Cook and Son Ltd. from any outstanding liability to the British Railways Board in connection with the persons who immediately before the 26th June 1972 were in receipt of pensions from, or were contributing members of, a railway pension fund in respect of employment by, or by a subsidiary of, Thos. Cook and Son Ltd.

By virtue of section 2(3)(d) of the Transport Holding Company Act 1972 the Order has effect from the 26th June 1972.

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