



Railway Clearing System Superannuation Fund Act 1976

CHAPTER viii

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ELIZABETH II



1976 CHAPTER viii

An Act to empower the Railway Clearing System Superannuation Fund Corporation to transfer certain assets of the fund of that Corporation to the British Railways Board, the British Transport Docks Board, the London Transport Executive and the National Freight Corporation in respect of certain contributing, non-contributing and superannuated members of that fund; to provide for the establishment of new funds by the bodies to which such assets are transferred and for the transfer of the persons having an interest in the transferred assets to membership of the appropriate new fund; to provide for the dissolution of the said Corporation and of the Council of the said fund; and for other purposes. [27th May 1976]

WHEREAS—

(1) By the Railway Clearing System Superannuation Fund Acts 1873 to 1972 (hereinafter referred to as “the said Acts”) provision was made for the establishment and carrying on of a fund (hereinafter referred to as “the old fund”) for the payment of superannuation allowances to the salaried officers and clerks of a group of bodies referred to in the said Acts:

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(2) The old fund is vested in a body incorporated under the said Acts by the name of the Railway Clearing System Superannuation Fund Corporation (hereinafter referred to as "the Corporation"):

(3) The British Railways Board, the British Transport Docks Board, the London Transport Executive and the National Freight Corporation (hereinafter referred to as "the transfer bodies") are bodies contributing to the old fund in respect of contributing, non-contributing or superannuated members of the old fund who are or were in their employment or in the employment of any of their predecessors (all of which contributing, non-contributing and superannuated members are hereinafter referred to as "the members"):

(4) The transfer bodies intend each to establish a new fund, or to make other appropriate arrangements, providing for contributions by and superannuation benefits for contributing members and for superannuation benefits for non-contributing and superannuated members:

(5) It is expedient that, by agreement between the Corporation on the one hand and each of the transfer bodies on the other hand, each of the transfer bodies should withdraw from the old fund and that the members should cease to be members of the old fund and should become members of the appropriate new fund, or be subject to the said other arrangements, and that a due proportion of the moneys, investments and other assets of the Corporation in respect of the members should be transferred to and vested in each of the transfer bodies for the purposes of the appropriate new fund, or the said other arrangements, or to other the trustees of the appropriate new fund, as the case may be:

(6) It is expedient that the provisions of this Act for giving effect to any such agreement reached by the Corporation with the transfer bodies should be enacted:

1972 c. xxi.

(7) By the Railway Clearing System Superannuation Fund Act 1972 the Corporation were empowered (inter alia) to transfer certain assets of the old fund to Coras Iompair Eireann (hereinafter referred to as "the Board") and that Act provided for the cesser of membership of the old fund of the persons having an interest in the transferred assets and the transfer of such persons to membership of a new fund to be established by the Board but the transfer of such assets and membership has not yet been effected in accordance with the provisions of that Act:

(8) It is expedient that, after the several transfers and vestings hereinbefore referred to of moneys, investments and other assets of the Corporation to and in the transfer bodies and the Board

have been effected pursuant to the provisions of this Act and the said Act of 1972, the Council constituted by the Railway Clearing House Scheme 1954 and the Corporation should be dissolved in accordance with the provisions of this Act:

(9) It is expedient that the other provisions contained in this Act should be enacted:

(10) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Railway Clearing System Superannuation Fund Act 1976. Short and collective titles.

(2) The Railway Clearing System Superannuation Fund Acts 1873 to 1972 and this Act may be cited together as the Railway Clearing System Superannuation Fund Acts 1873 to 1976.

2. In this Act, unless otherwise expressly enacted or unless the subject or context otherwise requires—

“ the Act of 1972 ” means the Railway Clearing System Superannuation Fund Act 1972; 1972 c. xxi.

“ the Board ” means Coras Iompair Eireann incorporated by the Transport Act 1950 (Act No. 12 of 1950 of the Oireachtas);

“ Board transfer member ” has the same meaning as in the Act of 1972;

“ the Committee ” means the Committee appointed to regulate and manage the old fund by or in accordance with the rules, the members of which Committee have been so appointed or, as the case may be, have been authorised to continue in office as members of the Committee by the British Transport (Amalgamation of Railways' Pension Funds) (No. 2) Order 1970, the London Transport (Alteration of Pension Schemes) Order 1970 and the British Railways and London Transport Pensions Schemes (Amendment) Order 1973;

“ Company transfer member ” has the same meaning as in the Act of 1972;

“ the Corporation ” means the Railway Clearing System Superannuation Fund Corporation;

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- “ the Council ” means the Council constituted by the Railway Clearing House Scheme Order 1954;
- “ existing ”, in relation to a pensions fund or scheme, means existing immediately prior to the operative date;
- “ joint annuitant ” means the widow or dependent relative of a deceased member of the old fund who is in receipt of a joint annuity in accordance with the rules;
- “ last operative date ” means the operative date agreed by the Corporation with the transfer bodies or, if different operative dates are so agreed, the last of such dates;
- “ member of the old fund ” means, as the case may be, a contributing or superannuated member of the old fund, a joint annuitant, or a non-contributing member of the old fund being a person who has superannuation rights thereunder which are deferred but who no longer contributes to the old fund;
- “ new fund ” means any new fund established in accordance with section 3 (Transfer of members to new funds and operative date of transfer) of this Act;
- “ the old fund ” means the fund of the Corporation;
- “ operative date ” has the meaning assigned to that expression by section 3 (Transfer of members to new funds and operative date of transfer) of this Act and includes the date of any vesting under subsection (2) or subsection (3) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act and any reference in this Act to operative date in relation to the Act of 1972 means the operative date as defined in that Act;
- “ the rules ” means the rules of the Corporation and the old fund;
- “ the transfer bodies ” means the British Railways Board, the British Transport Docks Board, the London Transport Executive and the National Freight Corporation and “ transfer body ” means any one of the transfer bodies;
- “ transfer member ” means, in relation to each transfer body, a person who, immediately before the operative date, is a member of the old fund and is employed by or who was last formerly employed by or by a predecessor of that transfer body or by a subsidiary of that transfer body or of its predecessor or, as the case may be, is a joint annuitant by the election in accordance with the rules by a member of the old fund who is not alive at the operative date but who was last formerly so employed, and “ the transfer members ” means all such persons.

3.—(1) A transfer body may, subject to the approval of the Corporation—

Transfer of members to new funds and operative date of transfer.

(a) establish a new fund to which transfer members of the transfer body may be transferred; or

(b) make arrangements for the absorption of transfer members of the transfer body into, and their transfer to, an existing pensions fund or scheme which is established for the employees of the transfer body, either by establishing a special section in that fund or scheme or in such other manner as the transfer body think fit, whereupon that fund or scheme shall be deemed to be a new fund of the transfer body for the purposes of this Act and such absorption and transfer shall take effect notwithstanding that the fund or scheme makes no provision for such absorption and transfer, and any provision in or in connection with that fund or scheme prohibiting or making such absorption or transfer subject to conditions other than those imposed by or under this Act shall be of no effect.

(2) The Corporation shall give approval under subsection (1) of this section only if they are satisfied that the rights, benefits and superannuation allowances to be provided by a transfer body in respect of members of the old fund to be transferred to the new fund of the transfer body are not less favourable than those provided by the old fund in respect of those members and that, in addition, the solvency of the new fund is guaranteed in respect of not only the members of the old fund transferred from section B, but also those transferred from section A, of the old fund.

(3) The transfer of members of the old fund to a new fund of a transfer body in accordance with the provisions of subsection (1) of this section shall take effect from such date as may be agreed in writing by the Corporation with the transfer body and any reference in this Act to "the operative date" means, in relation to the new fund of the transfer body, such date as so agreed.

4.—(1) On the operative date of any transfer (as provided for in section 3 (Transfer of members to new funds and operative date of transfer) of this Act) of transfer members there shall be transferred to and vest in the transfer body, or in any trustees of the new fund of the transfer body, as the case may be, such proportionate share of all moneys, investments and other assets of the old fund as may be agreed between the Corporation and the transfer body as equitable in the circumstances or, in default of agreement, as may be determined in accordance with the provisions of section 12 (Arbitration) of this Act.

Transfer of assets.

(2) In respect of moneys, investments and other assets transferred under the provisions of subsection (1) of this section a receipt, sealed by the transfer body or, if trustees of the new fund of the transfer body have been appointed by the transfer body, by those trustees or by a majority in number of them, shall for all purposes be sufficient evidence of the transfer thereof and shall effectively discharge the Corporation in respect of such transfer and the Corporation shall not be required to enquire into the application or non-application of the moneys, investments and other assets so transferred.

Administra-
tion of new
fund.

5. If a new fund is established by way of the absorption of transfer members of a transfer body into, and their transfer to, an existing pensions fund or scheme in accordance with section 3 (Transfer of members to new funds and operative date of transfer) of this Act, such existing pensions fund or scheme may be administered as a single fund or scheme for combining its existing purposes and its purposes as a new fund and investment may be made and accounts kept accordingly.

Policy
of insurance.

6. If a transfer body wishes to provide for the benefits and rights of the members of the old fund who may be transferred under the provisions of this Act to be protected by a policy of insurance, the transfer body may, subject to the approval of the Corporation as to the taking out of such policy, the terms thereof and the office in which the policy is to be taken out, take out such policy in lieu of or in addition to establishing a new fund and the provisions of this Act, in so far as they may be applicable, shall apply as if such policy were a new fund or addition to a new fund, as the case may be.

Provisions in
relation to
old fund.

7.—(1) In this section—

“the existing liabilities of the Corporation” means the aggregate of the following sums, such sums being:—

(a) any sum which accrued due before the operative date in respect of any periodical payment payable under the rules to or in respect of a transfer member, and which has not been paid; or

(b) any other sum which became due before the operative date under the rules to or in respect of a transfer member, and which has not been paid; or

(c) any sum (whether ascertained before or after the operative date) for which the Corporation are or may be liable in respect of any moneys, investments or other assets which shall vest in accordance with section 4 (Transfer of assets) of this Act;

“the contingent liabilities of the Corporation” means any sum which, but for this section, would under the rules

become due on or after the operative date to or in respect of a transfer member and includes any liability under rule 6 of the supplemental rules contained in the Second Schedule to the rules made under the Railway Clearing System Superannuation Fund Acts 1873 to 1914;

“transfer member” means a transfer member of any of the transfer bodies.

(2) On and from the operative date—

(a) every transfer member shall cease to be a member of the old fund and shall become a member of the new fund of the transfer body to which he is transferred;

(b) the Corporation shall cease to be liable for the existing liabilities of the Corporation and the contingent liabilities of the Corporation in relation to or in connection with the transfer of the transfer members and no claim shall be maintainable by any person against the Corporation in respect thereof.

(3) The existing liabilities of the Corporation and the contingent liabilities of the Corporation in respect of transfer members of any transfer body shall be and become charges on the new fund of the transfer body and shall be paid thereout by the transfer body or by any trustees appointed by it in respect of that fund.

8.—(1) If the operative date which is agreed with the Board in respect of Board transfer members in accordance with the provisions of the Act of 1972 and the last operative date are both prior to 1st January 1978, the Corporation and the Council shall be dissolved on the date which is the first anniversary of whichever is the later of the said dates.

Dissolution of Corporation and Council, vesting, etc.

(2) If the operative date which is agreed with the Board in respect of Board transfer members in accordance with the provisions of the Act of 1972 is a date prior to 1st January 1978 but any transfer body has not agreed an operative date which is prior to 1st January 1978, there shall, on 1st January 1978, vest in each such transfer body all the powers, functions, rights and obligations of the Corporation (including such powers, functions, rights and obligations conferred and imposed by this Act) in respect of transfer members of that transfer body together with such proportionate share of all moneys, investments and other assets of the old fund as may be agreed between the Corporation and each such transfer body as equitable in the circumstances or, in default of agreement, as may be determined in accordance with the provisions of section 12 (Arbitration) of this Act and the Corporation and the Council shall be dissolved on 1st January 1979.

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(3) If an operative date which is prior to 1st January 1978 is not agreed with the Corporation by the Board in accordance with the provisions of the Act of 1972—

- (a) the provisions of subsection (2) of this section relating to vesting in the case of any transfer body which has not agreed an operative date which is prior to 1st January 1978 shall have effect;
- (b) the Council shall be dissolved on 1st January 1979 and on and after that date and until such time as the Corporation shall be dissolved as provided in paragraph (c) of this subsection the Board, such of the Board transfer members as are on and after 1st January 1979 contributing members of the old fund and a committee consisting of six persons (three of whom shall be appointed by the Board as Board's committee-men and three of whom shall be appointed annually in accordance with the rules by the said contributing members as contributors' committee-men), shall, notwithstanding any provision, statutory or otherwise, to the contrary, on and from 1st January 1979 constitute the Corporation, and the Board, the said contributing members and the committee so appointed shall respectively have all the powers, functions and rights and be subject to all the obligations of the Council, the contributing members of the old fund and the Committee as existing in respect of and appertaining to the old fund:

Provided that the Board shall appoint three persons from the said contributing members to act as contributors' committee-men until such time as contributors' committee-men are appointed or elected at the annual general meeting to be held in the year commencing on 1st January 1979 in accordance with the rules; and

- (c) the Corporation shall be dissolved on the first anniversary of the operative date which is agreed by the Board with the Corporation (as constituted before 1st January 1979 or as constituted under the provisions of this subsection on and after that date) in accordance with the provisions of the Act of 1972.

For the purposes of this subsection, "Board transfer members" means such persons as would be Board transfer members if an operative date were agreed with the Board in accordance with the provisions of the Act of 1972 and that operative date were 1st January 1979.

(4) On and after any vesting in a transfer body as provided in subsections (2) and (3) of this section the transfer body shall apply the moneys, investments and other assets of the old fund so vested in such manner as shall ensure that the rights, benefits

and superannuation allowances in respect of the transfer members of the transfer body are not less favourable than those provided for such members under the old fund.

(5) Section 7 (Provisions in relation to old fund) of this Act shall apply to any vesting as provided in subsections (2) and (3) of this section as if such vesting were a transfer of transfer members and a vesting of the proportionate share of the moneys, investments and other assets in respect of those members to and in respect of a new fund established by the transfer body and the date of vesting under the said subsections (2) and (3) were the operative date.

9. Until the Corporation are dissolved in accordance with the provisions of subsection (1) or subsection (2) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act and the Council are dissolved in accordance with the said subsections or subsection (3) of the said section 8 or, if the Corporation is not so dissolved, until the 1st January 1979—

Constitution
of Council
and
Committee.

(a) any member of the Council as constituted on the passing of this Act may continue to hold office and, if there is any vacancy in the Council, the Council (or failing them, the body who appointed the person who has ceased to hold office) may, from time to time, appoint a person to fill the vacancy;

(b) any member of the Committee as constituted on the passing of this Act may continue to hold office and, if any Committee member ceases to hold office, the Committee (or, failing them, such of the transfer bodies as shall still be bodies contributing to the old fund) may, from time to time, appoint a person, whether or not he is a member of the old fund, to fill the vacancy.

10. If after the Corporation are dissolved there remains, or at a later date there arises, any thing which the Corporation should have completed or would have done in connection with the transfer of moneys, investments or other assets of the old fund under this Act or in connection with some other matter of an administrative nature rendered necessary by the provisions of this Act, the transfer bodies jointly may appoint, in respect of the transfer members, and the Board may appoint, in respect of Board transfer members, trustees to act and such trustees shall have power to act in respect of such matters as if they were the Corporation and such matters had arisen before the Corporation were dissolved and any costs, charges and expenses incurred by or in respect of such trustees or any thing done by them pursuant to this section shall, in the one case, be borne equitably by the transfer bodies and, in the other case, be borne by the Board:

Appointment
of trustees
after
1st January
1979 or
dissolution of
Corporation.

Provided that, if the Corporation are not dissolved by 1st January 1979, trustees for the foregoing purposes may be appointed by the transfer bodies and such trustees may act in accordance with the provisions of this section as if the Corporation had been dissolved on that date.

Application
of provisions
of Act of
1972.

11.—(1) The provisions of the Act of 1972 shall apply, and shall be deemed to have applied as from the passing of the Act of 1972, in the case of any joint annuitant and accordingly a joint annuitant or a person who was a joint annuitant immediately before 1st April 1973 (being the operative date of the transfer of Company transfer members to a new fund established by the Northern Ireland Transport Holding Company in accordance with the provisions of the Act of 1972) and is or was, as the case may be, in receipt of a joint annuity by the election, in accordance with the rules, by a member of the old fund who would, if alive at the operative date as defined in that Act, be or have been either a Board transfer member or a Company transfer member, shall be deemed to be, and shall be deemed to have been as from the passing of the Act of 1972, in the one case, a Board transfer member and, in the other case, a Company transfer member.

(2) For the avoidance of doubt it is hereby declared that any reference in section 5 (Provisions in relation to old fund) of the Act of 1972 to the rules of the Corporation includes reference to the rules of the old fund.

Arbitration.

12. If there shall be any difference between the Corporation and a transfer body, or any trustees appointed by the transfer body in respect of the new fund of the transfer body, as to the moneys, investments and other assets to be transferred pursuant to section 4 (Transfer of assets) of this Act or as to any matter arising under section 7 (Provisions in relation to old fund) of this Act or between the Corporation and the transfer body as to the moneys, investments or other assets to be vested in it under subsection (2) or subsection (3) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act, such difference shall be referred to and determined by a single arbitrator to be agreed upon by the parties to the difference or (failing such agreement) to be appointed on the application of either of the said parties (after notice in writing to the other of them) by the President of the Institute of Actuaries.

Evidence of
transfer of
assets, etc.

13.—(1) On or after the operative date or, as the case may be, on or after 1st January 1978 in the case of any transfer and vesting in accordance with the provisions of subsection (2) or subsection (3) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act (in either event as certified in writing by the Corporation and the transfer body concerned) the

production of a Queen's Printer's copy of this Act shall for all purposes be conclusive evidence of the transfer to, and vesting in, the transfer body, or such trustees as may be appointed by it, of the proportionate share of all moneys, investments or other assets as may be agreed in accordance with the said section 4 or subsection (2) or subsection (3) of the said section 8 or as may be determined in accordance with section 12 (Arbitration) of this Act.

(2) A copy of this Act shall operate as a duly executed stock transfer for all the purposes of the Stock Transfer Act 1963 in 1963 c. 18. respect of the vesting of any registered securities by virtue of section 4 (Transfer of assets) or of subsection (2) or subsection (3) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act and there shall accompany any copy of the Act produced for such purposes a letter of request signed on behalf of the Corporation or, in any case to which section 10 (Appointment of trustees after 1st January 1979 or dissolution of Corporation) of this Act shall apply, a letter of request signed by the secretary of any corporation appointed as trustee, or otherwise by any two trustees appointed in accordance with that section, specifying the registered securities in respect of which the Act is so produced.

14. All the costs, charges and expenses preliminary to and of Costs of and incidental to the preparation, applying for, obtaining and Act. passing of this Act shall be paid by the Corporation and the Corporation shall bear the expenses incidental to and in connection with the transfer of the transfer members to the new funds of the transfer bodies and incidental to and in connection with the registration of any registered security or property vested in a transfer body pursuant to the provisions of subsection (2) or subsection (3) of section 8 (Dissolution of Corporation and Council, vesting, etc.) of this Act.

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