

1983 No. 326

## TELECOMMUNICATIONS

**The British Telecommunications  
(Pensions) Order 1983**

<i>Made</i>	- - -	8th March 1983
<i>Laid before Parliament</i>		8th March 1983
<i>Coming into Operation</i>		30th March 1983

The Secretary of State, in exercise of the powers conferred upon him by section 33 of the British Telecommunications Act 1981(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

*Citation and Commencement*

1. This Order may be cited as the British Telecommunications (Pensions) Order 1983 and shall come into operation on 30th March 1983.

*Interpretation*

2. In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

“the 1969 Act” means the Post Office Act 1969(b);

“the 1981 Act” means the British Telecommunications Act 1981;

“the 1981 Order” means the British Telecommunications (Pensions) Order 1981(c);

“apportionment principles” means the principles furnished by the Actuaries under Article 6(1) below;

“the Actuaries” means the persons appointed both by the Post Office Scheme Trustees to act as such in relation to the Post Office Scheme and by the Corporation Scheme Trustees to act as such in relation to the Corporation Scheme;

“common service function” means a function common or ancillary both to the part of the undertaking of the Post Office mentioned in section 10(1) of the 1981 Act and to the other part of that undertaking;

“the Corporation” means British Telecommunications;

(a) 1981 c. 38.

(b) 1969 c. 48.

(c) S.I. 1981/1800.

“Corporation pensioner” means:

- (a) a person (including trustees appointed by the Post Office Scheme Trustees pursuant to a direction given before 1st April 1983 by a member of that Scheme) who is on 31st March 1983 immediately or prospectively entitled under the Post Office Scheme to receive payment of any pension or other benefit referable to (or refund of contributions paid during) employment or service, being employment or service of which the whole or the last period before that pension or benefit (or refund) became payable or prospective entitlement to it arose was employment or service with the Corporation (whether in the capacity of an employee or as a member thereof) or employment with an employer other than the Corporation on temporary transfer from employment with the Corporation; or
- (b) a person to whom any pension or other benefit referable to (or refund of contributions paid during) such employment or service is immediately or prospectively payable under the Post Office Scheme at the discretion of the said Trustees whether by virtue of a direction given by a member of that Scheme or otherwise;

“Corporation share” means that proportion of the Post Office Scheme Fund determined in accordance with the apportionment principles which at close of business on 31st March 1983 is held on trust for the benefit of the transferred members, transferred pensioners and Corporation pensioners;

“Corporation Scheme” means the British Telecommunications Staff Superannuation Scheme established by the Corporation under section 32 of the 1981 Act by the Corporation Scheme Trust Deed and having as its primary purpose the securing of pensions and other benefits for or in respect of some or all of the employees and future employees of the Corporation in accordance with the Rules set out in the Schedules to that Deed;

“Corporation Scheme Trustee” means a trustee for the time being of the Corporation Scheme Trust Deed;

“Corporation Scheme Fund” means all moneys from time to time held by or on account of the Corporation Scheme Trustees and any Corporation Scheme Custodian Trustee in pursuance of the Corporation Scheme Trust Deed and the investments and securities for the time being representing the same;

“Corporation Scheme Trust Deed” means the deed dated 2nd March 1983 and made between the Corporation of the one part and Sir Douglas Spottiswoode Morpeth, Malcolm Argent, Peter David Bairstow, John Stephen Sadler, Norman Stagg, Kenneth Rowland Thomas, Iain David Thomas Vallance, Edward Alban Webb, and Arthur Harvey Willitt of the other part.

“Corporation Scheme Custodian Trustee” means a person holding office as such in accordance with clause 7(1) of the Corporation Scheme Trust Deed;

“Deed of Covenant” means the deed entered into on 22nd November 1978 between the Post Office and the Trustees of the Post Office Staff Superannuation Scheme for the purpose of reducing a deficiency in the Post Office Scheme Fund, the liability for making payments under which deed was transferred to the Corporation on 1st October 1981 in pursuance of section 10 of the 1981 Act, references in the deed to the Post Office having effect thereafter as if they were references to the Corporation by virtue of paragraph 9 of Schedule 2 to that Act;

“Post Office Scheme” means the Post Office Staff Superannuation Scheme established by the Post Office under section 43 of the 1969 Act by the Post Office Scheme Trust Deed as amended by the 1981 Order, there being included in the trusts of that Deed the trusts referred to in section 47(10) of that Act;

“Post Office Scheme Custodian Trustee” means a person holding office as such in accordance with clause 7(1) of the Post Office Scheme Trust Deed;

“Post Office Scheme Fund” means all moneys from time to time held by or on account of the Post Office Scheme Trustees and any Post Office Scheme Custodian Trustee in pursuance of the Post Office Scheme Trust Deed and the investments and securities for the time being representing the same;

“Post Office Scheme Trust Deed” means the Principal Deed as amended by the Supplemental Deeds;

“Post Office Scheme Trustee” means a trustee for the time being of the Post Office Scheme Trust Deed, being a trustee appointed by the Post Office for the purposes also of section 47 of the 1969 Act;

“Principal Deed” means the deed dated 24th September 1969 and made between the Post Office of the one part and Alan Wolstencroft, Sir Richard Arthur Hayward, Kenneth Hotham Cadbury, Norman Frederick Holman, Lionel Victor Andrews, Charles Morgan and Kenneth Rowland Thomas of the other part;

“Supplemental Deeds” means the deeds made between the Post Office and the Post Office Scheme Trustees on the respective dates listed in the Schedule to this Order;

“transferred member” means a person who on 31st March 1983 is a member of the Post Office Scheme and is either:—

- (a) an employee of the Corporation or a person on temporary transfer from the Corporation to another employer; or
- (b) a member of the Corporation who immediately before he became such was an employee of the Post Office or the Corporation;

“transferred pensioner” means:

- (a) a person (including trustees appointed by the Post Office Scheme Trustees pursuant to a direction given by a member of that Scheme) who is immediately or prospectively entitled under that Scheme to receive payment of any pension or other benefit referable to (or refund of contributions paid during) employment or service, being employment or service of which the whole or the last period, or

the last period prior to employment in a common service function, before that pension or benefit (or refund) became payable or prospective entitlement to it arose was employment or service in the part of the undertaking of the Post Office mentioned in section 10(1) of the 1981 Act or employment with an employer other than the Post Office on temporary transfer from employment in that part of such undertaking or was service as a member of the Post Office with special responsibility for, or special executive responsibility in, that part of such undertaking; or

- (b) a person to whom any pension or other benefit referable to (or refund of contributions paid during) such employment or service is immediately or prospectively payable under the Post Office Scheme at the discretion of the Post Office Scheme Trustees whether by virtue of a direction given by a member of the Scheme or otherwise;

but a person whose entire employment with the Post Office was carried out in a common service function and who has not subsequently been employed by the Corporation shall not be a transferred pensioner unless the Post Office Scheme Trustees and the Corporation Scheme Trustees have agreed that he shall be transferred to the Corporation Scheme.

*Revocation of the 1981 Order*

3. On 1st April 1983 the 1981 Order shall be revoked and accordingly, as from that date:

- (1) the Post Office Scheme Trust Deed shall have effect as if the objects and primary purpose of the Post Office Scheme no longer included the securing of pensions and other benefits for or in respect of some or all of the following:—
  - (a) Corporation pensioners;
  - (b) Corporation employees;
  - (c) present and future members of the Corporation who immediately before they became such members were members of that Scheme;
- (2) the Post Office Scheme Trustees shall no longer stand possessed of the Post Office Scheme Fund upon trust to apply it in the manner required or permitted by, and for the objects and purposes of, the Post Office Scheme as so extended or otherwise upon the trusts referred to in section 47 of the 1969 Act as amended by the 1981 Order and the extension of clause 11(1) of the Post Office Scheme Trust Deed provided for in the 1981 Order shall no longer have effect;
- (3) section 47(10) of the 1969 Act shall have effect as if the trusts therein referred to included the trusts of any pension scheme established by the Post Office under section 43 of that Act as they were before being extended or amended by the 1981 Order and no longer included trusts the objects of which consist in reimbursing the Corporation any sums paid by it under section 44 or 46 of the 1969 Act the liability to pay which is transferred to the Corporation by section 10 of the 1981 Act;

- (4) any reference (however worded) to the Post Office Scheme in a contract governing the employment of a person by the Post Office shall be construed as a reference to the Post Office Scheme without the amendment thereto effected by the 1981 Order; and
- (5) the amendments of the Post Office Scheme Trust Deed contained in Schedule 2 to the 1981 Order shall cease to have effect and that Deed shall henceforth have effect as if the Corporation were no longer a party thereto.

*Transfer of certain pensioners from the Post Office Scheme to the Corporation Scheme*

4. On 1st April 1983, the transferred pensioners and the Corporation pensioners shall cease to be entitled to receive payment of any pension or other benefit under the Post Office Scheme; and accordingly the liabilities owed to those persons by the Post Office Scheme Trustees under the Post Office Scheme Trust Deed shall cease and thereupon the Corporation Scheme Trustees shall assume corresponding liabilities to those persons and the provisions of the Corporation Scheme Trust Deed shall have effect accordingly.

*Transfer of certain members of the Post Office Scheme to the Corporation Scheme*

5. On 1st April 1983 the transferred members shall cease to participate in the Post Office Scheme and shall instead participate in the Corporation Scheme; and accordingly:

- (1) the liabilities owed to those persons by the Post Office Scheme Trustees under the Post Office Scheme Trust Deed shall cease and thereupon the Corporation Scheme Trustees shall assume corresponding liabilities to those persons and the Corporation Scheme Trust Deed shall have effect accordingly; and
- (2) any reference (however worded) to the Post Office Scheme in a contract governing the employment of a person by the Corporation shall be construed as a reference to the Corporation Scheme.

*Apportionment principles*

6.—(1) Not later than 1st April 1983 the Actuaries shall furnish to the Post Office Scheme Trustees and the Corporation Scheme Trustees a statement of the principles upon which the apportionment between them of the Post Office Scheme Fund and future payments under the Deed of Covenant shall be effected.

(2) In formulating the apportionment principles the Actuaries shall act fairly and reasonably as between the two sets of trustees and shall take into account all matters which appear to the Actuaries to be relevant and, among other things, shall have regard to—

- (a) the liabilities which the Post Office Scheme Trustees will have as from that date under the Post Office Scheme Trust Deed, including liabilities arising under section 44 of the 1969 Act in respect of persons who ceased to be civil servants before 1st October 1969;
- (b) the liabilities which the Corporation Scheme Trustees will have as from 1st April 1983 under the Corporation Scheme Trust Deed; and
- (c) any relevant agreement made between the Post Office and the Corporation under section 10(3) of the 1981 Act.

*Implementation of the apportionment*

7. (1) As from 1st April 1983 the Post Office Scheme Trustees shall hold the assets of the Post Office Scheme Fund upon trust as to the Corporation share thereof for the benefit of the Corporation Scheme Trustees; and the Corporation Scheme Trustees shall hold the beneficial interest in the same upon the trusts set out in the Corporation Scheme Trust Deed.

(2) On or as soon as practicable after that date there shall be transferred from the Post Office Scheme Trustees to the Corporation Scheme Trustees such property, rights and related liabilities of the Post Office Scheme Fund as, taken together, are equal, or as nearly as possible equal, in value to the Corporation share and the particular property, rights and liabilities so transferred shall be such as may be agreed between them or, in default of agreement—

- (a) where the nature of any such property, right or liability so permits, such proportion thereof as is equal, or as nearly as possible equal, in value to the Corporation share thereof and the Post Office Scheme Trustees shall take all steps necessary to effect such transfer; and
- (b) where the nature of any such property, right or liability does not permit such division or apportionment, that property, right or liability shall continue to be held by the Post Office Scheme Trustees upon trust as to the Corporation share thereof for the benefit of the Corporation Scheme Trustees in accordance with paragraph (1) above and as to the remainder thereof upon the trusts set out in the Post Office Scheme Trust Deed as it has effect in accordance with this Order until such time as the Corporation Scheme Trustees and the Post Office Scheme Trustees otherwise agree (and pending such agreement the former shall indemnify the latter in respect of the same proportion of each such liability as the Corporation share bears to the total amount of the Post Office Scheme Fund as at close of business on 31st March 1983);

and upon any property or right being so transferred the obligations of the Post Office Scheme Trustees under the trust imposed under paragraph (1) above shall be correspondingly reduced.

(3) As from 1st April 1983 the Deed of Covenant shall have effect as if, for the obligation of the Corporation to pay each sum specified in the Schedule thereto on the date therein specified in relation to it, there were substituted—

- (a) an obligation of the Corporation to pay to the Corporation Scheme Trustees on the date so specified an amount equal to such proportion of that sum as shall be determined in accordance with the apportionment principles; and
- (b) an obligation of the Corporation to pay to the Post Office Scheme Trustees on the date so specified an amount equal to the difference between the amount payable under (a) above and the sum specified in the said Schedule as being payable to them on that date.

*Exclusion of effect of section 38 of the Social Security Pensions Act 1975*

8. Nothing in section 38(1) of the Social Security Pensions Act 1975(a) or any regulations made thereunder shall have effect so as to prevent the transfer from the Post Office Scheme Trustees to the Corporation Scheme Trustees

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(a) 1975 c.60; s.38(1) was amended by the Social Security Act 1980 (c.30), s.3(5), and S.I. 1975/2101 made exceptions thereto.

in accordance with this Order of any liabilities which the former may have under the Post Office Scheme Trust Deed to any person who, having left the employment of the Post Office or the Corporation, is entitled to the payment at any future date of any pension or other benefit referable to service with the Post Office or the Corporation.

*Kenneth Baker,*  
Minister of State  
Department of Industry

8th March 1983

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### SCHEDULE

#### THE SUPPLEMENTAL DEEDS

The Supplemental Deeds are the deeds made respectively on the dates specified below:—

No.	Date
1	24th June 1970
2	2nd September 1971
3	19th November 1971
4	24th November 1971
5	24th May 1972
6	27th September 1972
7	15th December 1972
8	22nd December 1972
9	29th May 1975
10	23rd September 1975
11	17th January 1978
12	18th January 1978
13	21st November 1978
14	26th January 1979
15	13th June 1980
16	9th September 1981

**EXPLANATORY NOTE**

*(This Note is not part of the Order.)*

This Order revokes the extension of the trusts of the Post Office Staff Superannuation Scheme ("the Post Office Scheme") effected by the British Telecommunications (Pensions) Order 1981, which (following the transfer to British Telecommunications ("the Corporation") of the part of the Post Office's undertaking concerned with the provision of telecommunication and data processing services under the British Telecommunications Act 1981), made provision for the employees and certain members of the Corporation to participate or continue to participate in the Post Office Scheme. It also transfers to the trustees of the British Telecommunications Staff Superannuation Scheme recently established by the Corporation ("the Corporation Scheme") both the liabilities of the trustees of the Post Office Scheme to pay pensions and other benefits to, or referable to the employment or service of, those employees and members and the trustees' liabilities to other pensioners and beneficiaries of the Post Office Scheme whose last period of employment or service before retirement was either with the said part of the Post Office's undertaking or with the Corporation. Provision is made for the apportionment of the fund of the Post Office Scheme and the transfer from the trustees of that Scheme to the trustees of the Corporation Scheme of the proportion of it held on trust for the benefit of the persons being transferred to the Corporation Scheme.

Copies of the pension deeds relating to the Post Office Scheme can be inspected by arrangement with the Secretary to the Trustees of the Post Office Staff Superannuation Scheme, 47-51 King William Street, London EC4R 9DD and a copy of the pension deed relating to the Corporation Scheme can be inspected by arrangement with the Secretary to the Trustees of the British Telecommunications Staff Superannuation Scheme Fund, 85 Watling Street, London EC4M 9BN.

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