
STATUTORY INSTRUMENTS

2000 No. 3386

The London Transport Pension Arrangements Order 2000

Citation, commencement and interpretation

1.—(1) This Order may be cited as the London Transport Pension Arrangements Order 2000.

(2) The provisions of this Order other than Article 10 shall come into force on 29th January 2001 and Article 10 shall come into force on 30th January 2001.

(3) In this Order—

“the Act” means the Greater London Authority Act 1999;

“contributing member” has the meaning given in paragraph 3(10) of Schedule 32;

“employment” has the meaning given in paragraph 1(1) of that Schedule and related expressions shall be construed accordingly;

“LRT pension scheme” has the meaning given in paragraph 1(1) of that Schedule;

“pension” and “pension rights” have the meanings given in section 411(11) of the Act;

“pension scheme” means an occupational pension scheme, as defined in section 1 of the Pension Schemes Act 1993(1);

“private sector company” has the meaning given in paragraph 3(10) of Schedule 32;

“protected person” means a person who is a protected person for the purposes of paragraph 3 of that Schedule;

“relevant transaction” has the meaning given in paragraph 3(10) of that Schedule, and references to a particular protected person’s relevant transaction are to the relevant transaction as a result of which he became a protected person;

“Schedule 32” means Schedule 32 to the Act.

(4) In this Order references to persons being employed in the London underground railway industry shall be construed in accordance with paragraph 3(9)(a) of Schedule 32, read with article 4(3) of this Order.

(5) Chapter I of Part XIV of the Employment Rights Act 1996(2) (continuous employment) shall have effect for the purposes of this Order as it has effect for the purposes of that Act.

Persons who are “protected persons”: prescribed relevant transactions etc.

2.—(1) For the purposes of paragraph 3(1)(a) of Schedule 32 (which defines a “protected person” as a person who as a result of a prescribed relevant transaction has become an employee of a private sector company) the relevant transactions are those listed in Schedule 1 to this Order.

(2) In determining for the purposes of paragraph 3(1)(b) of Schedule 32 whether a person was an employee of London Regional Transport or a subsidiary of London Regional Transport immediately before becoming an employee of a private sector company, a break in the person’s continuity of

(1) 1993 c. 48.

(2) 1996 c. 18.

employment shall be disregarded if the person re-entered employment after the break pursuant to a statutory or contractual right to return to employment which existed before the break.

Scope of protected rights: relationship to membership of LRT Pension Fund

3.—(1) The LRT pension scheme specified for the purposes of paragraph 3(3)(a) and (b) of Schedule 32 (schemes where membership is protected and benefits are used for comparison in determining rights under other schemes) is the LRT Pension Fund.

(2) In determining for the purposes of that paragraph and this Order whether a person was participating in the LRT Pension Fund immediately before a relevant transaction, the person's voluntary withdrawal from participation in the scheme shall be disregarded if the following conditions are met.

(3) Those conditions are that—

- (a) the withdrawal is due to a break in the person's continuity of employment,
- (b) the person re-enters the employment within 12 months of leaving it pursuant to a statutory or contractual right to return to employment which existed before the break, and
- (c) on doing so he begins to participate in the scheme again or applies to do so.

Right to continue to participate in LRT pension scheme after becoming protected person

4.—(1) A person who—

- (a) is a protected person, and
- (b) was participating in the LRT Pension Fund as a contributing member immediately before his relevant transaction,

has the right to continue to participate as a contributing member in the LRT Pension Fund for the protected period.

(2) For this purpose—

- (a) “the protected period” is the period during which the conditions which are the appropriate conditions for the purposes of paragraph 3(3)(a) of Schedule 32 continue to be met, and
- (b) a person is to be regarded as continuing to participate in the LRT Pension Fund despite voluntarily withdrawing from participation in it if the conditions mentioned in article 3(3) are met in relation to the withdrawal.

(3) The activities specified in Schedule 2 to this Order are those specified for the purposes of paragraph 3(9) of Schedule 32 (activities persons must be employed to carry on to qualify as persons “employed in the London underground railway industry” for the purposes of paragraph 3 and, in particular, the appropriate condition mentioned in paragraph 3(4)(a)).

(4) The appropriate condition mentioned in paragraph 3(4)(b) of Schedule 32 is that the person must remain in continuous employment.

(5) In determining whether the conditions which are the appropriate conditions for the purposes of paragraph 3(3)(a) of Schedule 32 are met in the case of any person—

- (a) any period of less than 12 months during which the person is not employed in the London underground railway industry shall be disregarded if the person was so employed immediately before the period and immediately after it, and
- (b) any break in the person's continuity of employment shall be disregarded if the person re-entered employment after the break pursuant to a statutory or contractual right to return to employment which existed before the break.

Obligation to provide overall materially at least as good benefits under schemes to which employees belong after relevant transactions

5.—(1) This article applies where—

- (a) a person (“the employer”) employs a protected person (whether or not he is employed in the London underground railway industry), and
- (b) the protected person’s period of continuous employment is not broken for the purposes of paragraph 3(3)(b) of Schedule 32.

(2) The employer must provide a pension scheme—

- (a) in which the protected person may participate as a contributing member, and
- (b) which makes the appropriate provision.

(3) If the scheme provided by the employer is the LRT Pension Fund, the appropriate provision is provision under which the pension rights which accrue to or in respect of the protected person under the scheme in respect of his service after his relevant transaction are overall materially at least as good as the pension rights accruing to or in respect of him under the LRT Pension Fund in respect of service immediately before that transaction.

(4) If another pension scheme is provided by the employer, the appropriate provision is provision requiring that—

- (a) the trustees of the scheme accept payment of a transfer value in respect of the protected person representing pension rights in respect of him under the LRT Pension Fund or any other scheme provided under this Article,
- (b) the pension rights acquired by and in respect of him under the scheme as a result of such a payment are overall materially at least as good as those in respect of him under the LRT Pension Fund at the date of his relevant transaction, and
- (c) the pension rights which accrue to or in respect of him under the scheme in respect of his service after he begins to participate in the scheme are overall materially at least as good as the pension rights accruing to or in respect of him under the LRT Pension Fund in respect of service immediately before that transaction.

(5) Where another scheme is provided by the employer, the employer must before the end of the period of six months beginning with the date on which the protected person becomes a member of the scheme—

- (a) obtain a certificate from an actuary appointed by the trustee of the LRT Pension Fund for the purpose that in his opinion the requirements in paragraph (4)(b) and (c) are met by the scheme, and
- (b) furnish copies of the certificate to that trustee and the protected person.

(6) Paragraph (5) does not apply if the protected person has agreed in writing that the employer need not obtain such a certificate.

(7) If and to the extent that an amendment of a pension scheme would, apart from this paragraph, have the effect of making pension rights within paragraph (3) or paragraph (4)(b) or (c) overall materially worse than the pension rights under the LRT Pension Fund with which they are compared under that paragraph, the amendment shall have no effect in relation to those rights, unless the rights are in respect of a protected person who has consented in writing to the amendment.

(8) In determining whether a person’s period of continuous employment is broken for the purposes of paragraph 3(3)(b) of Schedule 32 (and so for paragraph (1)(b) above), any break in the person’s continuity of employment shall be disregarded if the person re-entered employment after the break pursuant to a statutory or contractual right to return to employment which existed before the break.

Obligations as to transfer values

6.—(1) Where the trustees of a pension scheme (“the transferring scheme”) are obliged to pay a transfer value in respect of a protected person to another scheme in which the person is entitled to participate in pursuance of his rights under this Order (“the receiving scheme”), they must pay—

- (a) an amount which is not less than the minimum transfer amount, or
- (b) so much of the minimum transfer amount as they are able, having regard to the provisions of the transferring scheme and the share of the fund of that scheme attributable to the protected person.

(2) In this article “the minimum transfer amount” means—

- (a) the cash equivalent of the pension rights in respect of the protected person, as calculated under the Pension Schemes Act 1993(3), or
- (b) if it is greater, the amount necessary to provide the benefits to which the protected person would have been entitled under the transferring scheme.

(3) For the purposes of this article—

- (a) the amount referred to in paragraph (2)(b) is to be taken to be such amount as the actuary appointed by the trustees of the transferring scheme for the purpose considers so necessary after consultation with the actuary appointed by the trustees of the receiving scheme for the purpose; and
- (b) those actuaries must have regard to all relevant matters, including any increase in the value of the pension rights attributable to any increase in the final earnings of the protected person which would have been expected apart from the transfer.

(4) In a case where a payment within paragraph (1)(b) is made—

- (a) before—
 - (i) the end of the period of three months beginning with the date on which that payment is made, or
 - (ii) if it is later, the end of the period of five months beginning with the date on which the obligation to pay the transfer value arises,

the person who was the employer of the protected person before the transfer shall pay the shortfall to the trustees of the receiving scheme, and

- (b) if he does not do so, then, without prejudice to the obligation imposed under paragraph (a), before the end of the period of six months beginning with that date the person who is the employer of the protected person after the transfer shall pay those trustees the difference between—
 - (i) the aggregate of what is paid under paragraph (1) and sub-paragraph (a), and
 - (ii) the minimum transfer amount.

(5) The trustees of a pension scheme to which a transfer value in respect of a protected person is paid shall secure that—

- (a) in so far as the acquired rights represent pension rights which had accrued to or in respect of the person before his relevant transaction, they are overall materially at least as good as those in respect of him under the LRT Pension Fund at the date of that transaction,
- (b) in so far as the acquired rights represent pension rights which accrued to or in respect of him in respect of his service after that transaction, they are overall materially at least as good as his pre-transaction service rights, and

- (c) the pension rights which accrue to or in respect of him under the scheme in respect of his service after he begins to participate in the scheme are overall materially at least as good as his pre-transaction service rights.
- (6) In paragraph (5)—
 - “acquired rights” means the pension rights acquired by and in respect of the protected person under the scheme as a result of the payment of the transfer value; and
 - “pre-transaction service rights” means the pension rights accruing to or in respect of the protected person under the LRT Pension Fund in respect of service immediately before his relevant transaction.

Contributions to pension schemes to which protected persons belong

- 7.—(1) The employer of a person who—
 - (a) is a protected person, and
 - (b) participates in the LRT Pension Fund or any other pension scheme in pursuance of his rights under this Order,

must make contributions to that scheme or, in the case of a scheme with different sections, the section of the scheme to which the person belongs, of not less than such amount and at such times as the actuary appointed by the trustees of the scheme for the purpose certifies as adequate for providing for the following rights in respect of that person.

- (2) Those rights are—
 - (a) the pension rights which at the date as at which the actuary gives that opinion have accrued under the scheme or section or have been transferred to it in accordance with this Order,
 - (b) any pension rights which are accruing in respect of current participation in the scheme or section, and
 - (c) any enhancement of the rights mentioned in sub-paragraphs (a) and (b) by reason of increases in the remuneration of members of the scheme or section.
- (3) The trustees of a scheme or section to which this article applies must obtain a fresh certificate from the actuary for the purposes of paragraph (1) if—
 - (a) a period of three years and six months has elapsed since the date as at which such a certificate was last given, or
 - (b) the scheme or section is to be wound up in whole or in part, or
 - (c) they consider it desirable for any other reason.

Circumstances where this Order ceases to have effect as respects a protected person

- 8.—(1) Subject to paragraph (2), this article applies where a protected person—
 - (a) voluntarily withdraws from a pension scheme in which he has a right to participate under this Order, except in a case where the conditions mentioned in article 3(3) are met in relation to the withdrawal, or
 - (b) requests in writing to the trustees of such a pension scheme that his pension rights be transferred from the scheme.
- (2) This article does not apply by virtue of paragraph (1)(b) if the transfer is to another such pension scheme, unless the protected person states to the trustees in writing that he wishes to waive his rights under this Order.

(3) Where this article applies, this Order shall cease to have effect in the case of the protected person in question, but, where this paragraph applies by virtue of paragraph (1)(b), it only so ceases if and to the extent that his pension rights are transferred in pursuance of the request.

Amendment of London Transport (Male Wages Grades) Pension Scheme

9. The Schedule to the London Transport (Male Wages Grades Pensions) Order 1966(4) (rules of the scheme) shall be amended in accordance with Schedule 3 to this Order.

Winding up of London Transport (Male Wages Grades) Pension Scheme

10.—(1) All liabilities in respect of any pensions or other benefits under the London Transport (Male Wages Grades) Pension Scheme (“the LT(MWG) Scheme”), as they have effect immediately before the coming into force of this Article, shall become liabilities of the LRT Pension Fund (and accordingly shall be payable by that Fund in accordance with its administrative rules).

(2) Not later than 6 months after the date on which this Article comes into force, London Transport shall transfer to the trustee of the LRT Pension Fund such sum as is certified by an actuary appointed by that trustee for the purpose to be equal in value to the total of those liabilities on that date.

(3) The LT(MWG) Scheme shall cease to have effect.

(4) The following Orders are hereby revoked—

- (a) the London Transport (Male Wages Grades Pensions) Order 1966,
- (b) the London Transport (Male Wages Grades Pensions) (Amendment) Order 1974(5), and
- (c) the London Transport (Male Wages Grades Pensions) (Amendment) Order 1975(6).

(5) Article 9 and Schedule 3 are hereby revoked.

Amendment of the LRT Pension Fund’s Trust Deed and Rules

11.—(1) The provisions of the Trust Deed and Rules of the LRT Pension Fund(7), as they have effect on the date on which this Order is made, shall be amended in accordance with Schedule 4 to this Order.

(2) The amendments in that Schedule are without prejudice to any other powers to amend that Deed and those Rules that may be exercised after the date on which this Article comes into force.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Gus Macdonald
Minister of State,
Department of the Environment, Transport and
the Regions

22nd December 2000

(4) S.I.1966/1164; the relevant amending instrument is S.I. 1974/526.

(5) S.I. 1974/526.

(6) S.I. 1975/361

(7) Copies of the Trust Deed and Rules, as they have effect on the date on which this Order is made, have been deposited in the Libraries of the House of Commons and the House of Lords and are available for inspection at Zone 1/11, Great Minster House, 76 Marsham Street, London SW1P 4DR.