



Transport Act 1980

1980 CHAPTER 34

PART III

RAILWAY ETC. PENSIONS

Modifications etc. (not altering text)

- C1** Part III (ss. 52-60): power to extend conferred (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 10(1)(a)**; S.I. 1993/3237, **art.2(2)**.
Part III (ss. 52-60) amended (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 10(4)**; S.I. 1993/3237, **art.2(2)**.
Part III (ss. 52-60) modified (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 10(5)(6)(13)**; S.I. 1993/3237, **art.2(2)**.
Part III (ss. 52-60) restricted (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 10(14)**; S.I. 1993/3237, **art.2(2)**.

52 Payments by Minister in respect of B.R. and N.F.C. pension schemes.

- (1) [^{F1}Subject to the provisions of this section and sections 52A to 52D and 58,] the Minister shall, in relation to each B.R. or N.F.C. pension scheme and for each financial year, make to the persons administering the scheme payments equal in aggregate to the product of—
- the proportion determined under section 54(1) as the proportion of the relevant pension obligations which has not been funded;
 - the proportion determined in relation to that year under section 55(1) as the proportion of the pensions, increases and expenses payable under or incurred in connection with the scheme which corresponds to those obligations; and
 - the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for that year.
- (2) Where in the case of any such scheme the funding of the relevant pension obligations has, by virtue of subsection (3) of section 54, been left out of account in making a determination under subsection (1) of that section, the aggregate amount of the

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payments made under subsection (1) to the persons administering the scheme shall be reduced for each financial year—

- (a) by the amount of any income accruing to the scheme for that year which may be applied towards the payment of such of the pensions, increases and expenses payable under or incurred in connection with the scheme as correspond to the obligations; and
 - (b) in the case of the first financial year, by an amount equal to the value of the assets by which the obligations are funded.
- (3) Where, for any financial year, the aggregate amount of the payments made under subsection (1) to the persons administering any such scheme requires adjustment by reason of—
- (a) any variation between the proportion finally determined under section 55(1) in relation to that year and the proportion previously so determined; or
 - (b) any unforeseen increase or reduction in the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for that year,
- that adjustment shall be made by increasing or, as the case may require, reducing the aggregate amount of the payments made under subsection (1) for the following financial year.
- (4) Payments under subsection (1) shall be made, so far as practicable, not later than the day on which the pensions, increases and expenses to which they relate fall to be paid or incurred.
- (5) The making of any payment under subsection (1) shall be subject to compliance with such conditions as to the keeping of records, the issue of certificates and the auditing of accounts as the Minister may with the approval of the Treasury determine.
- (6) Any sums required for making payments under subsection (1) shall be paid out of money provided by Parliament.

Textual Amendments

- F1** Words in s. 52(1) substituted (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9(1)**; S.I. 1993/3237, **art.2(2)**

Modifications etc. (not altering text)

- C2** S. 52(1) restricted (12.3.1995) by S.I. 1995/430, **arts. 2, 4**.
- C3** S. 52(1)(a) modified (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para 10(5)**; S.I. 1993/3237, **art. 2(2)**

[^{F2}52A Power to make payments by way of final discharge of liabilities under s.52(1).

- (1) If the Minister is desirous of making to the persons administering a B.R. pension scheme one or more payments by way of final discharge of his liability to make payments to them under section 52(1) in relation to that scheme, to the extent that that liability relates to so much of the relevant pension obligations as are owed in respect of—
- (a) all pension rights under the scheme,
 - (b) pension rights of some particular class or description under the scheme, or
 - (c) pension rights of persons of some particular class or description under the scheme,

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he may give to the persons administering the scheme a notice identifying the pension rights in question and specifying in relation to those pension rights the matters set out in subsection (2), as determined in accordance with the following provisions of this section.

- (2) The matters mentioned in subsection (1) are—
 - (a) the capital value of the attributable unfunded obligations in question, as at the beginning of the next financial year;
 - (b) the amount or amounts, or the method of determining the amount or amounts, of the payment or payments to be made under this section by way of final discharge of the Minister's liability to make payments under section 52(1), so far as relating to the pension rights identified in the notice under subsection (1); and
 - (c) the date or dates on which that payment or those payments are to be made.
- (3) In making any determination for the purposes of paragraph (b) of subsection (2), the amount or, as the case may be, the aggregate of the amounts mentioned in that paragraph shall be such as to include—
 - (a) a sum equal to the capital value determined under paragraph (a) of that subsection; and
 - (b) interest, payable at such rate as may be determined by the Minister, on so much (if any) of that sum as may from time to time be outstanding after the beginning of the financial year mentioned in the said paragraph (a).
- (4) For the purposes of this section, the capital value mentioned in paragraph (a) of subsection (2) shall either—
 - (a) be determined by the Minister, or
 - (b) if the Minister so requires in the particular case, be determined by the actuary to the scheme in question and approved by the Minister,and it shall be for the Minister to determine the matters mentioned in paragraphs (b) and (c) of that subsection.
- (5) Notice under subsection (1) above shall only be given after consultation—
 - (a) with the persons administering the scheme in question; and
 - (b) with the actuary to that scheme, except in a case where the capital value mentioned in subsection (2)(a) is determined by that actuary pursuant to subsection (4)(b);and any such notice must be given not less than one month before the beginning of the financial year mentioned in subsection (2)(a).
- (6) The giving of a notice under subsection (1) shall—
 - (a) terminate the liability of the Minister to make payments under section 52(1), so far as relating to the pension rights identified in the notice, for financial years beginning after the giving of the notice; and
 - (b) impose upon the Minister a duty—
 - (i) to make to the persons administering the scheme in question the payment or payments mentioned in subsection (2)(b); and
 - (ii) to do so at the time or times specified in pursuance of subsection (2)
 - (c).
- (7) Where notice has been given under subsection (1), the Minister may—

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- (a) at any time before the expiration of the period of eleven months beginning with the financial year mentioned in subsection (2)(a) as it applies in relation to that notice, and
- (b) after consultation with the persons administering the scheme in question and the actuary to the scheme,

amend that notice by giving notice of the amendment to the persons administering the scheme.

(8) If notice is given under subsection (7) of an amendment affecting the amount of a payment which has been made pursuant to this section, the Minister may also give notice to the persons administering the scheme in question requiring them—

- (a) to repay to him so much of the payment made as exceeds the amended amount; and
- (b) to pay interest to him, at such rate as he may determine, on the amount to be repaid, as from the date on which the payment in question was made by him;

and where notice is given under paragraph (a) or (b), the amount required to be repaid or, as the case may be, the amount of interest required to be paid from time to time, shall be treated as a debt due from those persons to the Minister.

(9) In any case where—

- (a) notice has been given under subsection (1), the effect of which (whether taken alone or with other notices under that subsection) is that notice has been given under that subsection in respect of all pension rights under the scheme in question, and
- (b) for that financial year in which the notice mentioned in paragraph (a) is given, the aggregate amount of the payments made under section 52(1) in relation to the scheme requires adjustment for the reason set out in section 52(3)(a) or (b), but
- (c) the required adjustment cannot be made as mentioned in section 52(3), because (in consequence of the notice mentioned in paragraph (a)) no payments under section 52(1) fall to be made in relation to that scheme for subsequent financial years,

payments by way of adjustment, of an amount equal in the aggregate to the amount of the required adjustment, shall instead be made by the Minister to the persons administering the scheme or, as the case may require, by those persons to the Minister, before the expiration of the period of six months beginning with the date on which the amount of the required adjustment is determined.

(10) The Minister may give a direction to the persons administering a B.R. pension scheme requiring them to furnish to him—

- (a) information from which the proportion mentioned in section 55(1)(a) can be finally determined for the financial year mentioned in subsection (9)(b) in the case of the scheme; or
- (b) information about any such unforeseen increase or reduction in the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for that financial year as is mentioned in section 52(3)(b).

(11) Where payments by way of adjustment fall to be made under subsection (9), interest shall be payable from the end of the financial year in which the notice mentioned in subsection (9)(a) is given, by the person liable to make those payments, at such

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intervals and rates as may be determined by the Minister, on so much of the aggregate amount of the payments in question as for the time being remains unpaid.

- (12) So much of—
- (a) any payment by way of adjustment under subsection (9) which falls to be made, or
 - (b) any interest accrued under subsection (11),
- as has not been paid shall be treated as a debt due.
- (13) Nothing in this section affects the liability of the [^{F3}Authority] in respect of any relevant pension obligations.
- (14) For the purposes of this section, the “capital value of the attributable unfunded obligations”, in the case of any B.R. pension scheme, means such amount as is, in the opinion of the person determining that capital value pursuant to subsection (4), the capital equivalent of the payments that would, apart from this section, have been expected to be made by the Minister under section 52(1), so far as relating to the pension rights identified in the notice under subsection (1), for the successive financial years beginning with the one mentioned in subsection (2)(a).
- (15) Any sums required for the making of payments under this section by the Minister shall be paid out of money provided by Parliament.]

Textual Amendments

- F2** S. 52A inserted (6.4.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9**; S.I. 1993/3227, **art. 2**
- F3** Word in s. 52A(13) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 9**; S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provisions and savings in **Sch. 2 Pt. II**)

[^{F4}52B Power to substitute obligations under this section for liabilities under s.52(1).

- (1) The Minister may make a substitution order in relation to any occupational pension scheme—
- (a) which is a new scheme, within the meaning of Schedule 11 to the Railways Act 1993;
 - (b) which is designated under paragraph 10(1) of that Schedule (designation of schemes which are to be treated as B.R. pension schemes for certain purposes of this Part); and
 - (c) in relation to which a guarantee has been given by the Secretary of State under paragraph 11 of that Schedule;
- and any reference in this section to a “guaranteed pension scheme” is a reference to such an occupational pension scheme.
- (2) The Minister may also make a substitution order in relation to any section of a new scheme, within the meaning of Schedule 11 to the Railways Act 1993, if the section is one—
- (a) which is designated under paragraph 10(1) of that Schedule; and
 - (b) in relation to which a guarantee has been given by the Secretary of State under paragraph 11 of that Schedule;
- and the following provisions of this section (and sections 52C and 52D) shall apply in relation to any such section of a new scheme as if any reference to a guaranteed pension scheme included a reference to such a section.

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- (3) For the purposes of this section, a “ substitution order ” is an order under this section the effect of which is—
- (a) to terminate, from the termination date, the Minister’s liability to make to the persons administering the guaranteed pension scheme in question payments under section 52(1) in relation to the scheme; and
 - (b) to impose on the Minister, in substitution for that liability, an obligation to make to those persons, subject to and in accordance with the following provisions of this section, one or more other payments (the “ substitution payments ”) in relation to that scheme.
- (4) Subject to the following provisions of this section, the amount of the substitution payments to be made in the case of a guaranteed pension scheme shall be equal in the aggregate to the sum of—
- (a) the amount specified pursuant to subsection (5)(a) as the capital value of the unfunded obligations in the case of the scheme; and
 - (b) the aggregate amount of any interest which is dealt with as mentioned in subsection (8)(b)(ii) in the case of the scheme.
- (5) A substitution order must specify—
- (a) the capital value of the unfunded obligations in the case of the guaranteed pension scheme in question, as at the termination date; and
 - (b) the date which, for the purposes of this section, is to be the termination date in relation to that scheme, being a date not earlier than one month after the coming into force of the substitution order.
- (6) Any determination for the purposes of this section of the capital value of the unfunded obligations in the case of a guaranteed pension scheme shall either—
- (a) be made by the Minister; or
 - (b) if the Minister so requires in the particular case, be made by the actuary to the guaranteed pension scheme in question and approved by the Minister.
- (7) A substitution order may specify—
- (a) the amount or amounts, or the method of determining the amount or amounts, of the substitution payments,
 - (b) the date or dates on which the substitution payments are to be made,
 - (c) circumstances (which may, if the Minister so desires, be defined by reference to the opinion of any person) in which substitution payments are to be made,
- and may provide for the obligation to make substitution payments to be discharged if the guaranteed pension scheme in question has, in the opinion of a person specified or described in, or nominated under, the order, been wound up.
- (8) A substitution order must provide—
- (a) for interest to accrue from the termination date on the outstanding balance of the capital value for the time being at such rate, and at such intervals, as may be specified in, or determined under or in accordance with, the order; and
 - (b) for any such interest which accrues—
 - (i) to be paid to the persons administering the guaranteed pension scheme in question, or
 - (ii) to be added to the outstanding balance of the capital value,
 (or to be dealt with partly in one of those ways and partly in the other);

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and the provision that may be made by virtue of paragraph (a) includes provision for the rate of interest to be calculated by reference to any variable or to be such rate as the Minister may from time to time determine and specify in a notice to the persons administering the scheme in question.

- (9) For the purposes of subsection (8), the “outstanding balance of the capital value”, in the case of a guaranteed pension scheme, means the capital value of the unfunded obligations in the case of the scheme, as specified pursuant to subsection (5)(a),—
- (a) reduced by the amount of any substitution payments made in relation to that scheme; and
 - (b) increased by any additions of accrued interest under or by virtue of subsection (8)(b)(ii) in relation to that scheme.
- (10) Nothing in this section affects the liability of the [^{F5}Authority] in respect of any relevant pension obligations.
- (11) Any sums required for the making of payments under this section by the Minister shall be paid out of money provided by Parliament.
- (12) In this section—
- “the capital value of the unfunded obligations”, in the case of any guaranteed pension scheme, means such amount as is, in the opinion of the person determining that capital value pursuant to subsection (6), the capital equivalent of the payments that would, apart from this section, have been expected to be made by the Minister under section 52(1) in relation to that scheme after the termination date in the case of that scheme;
 - “ occupational pension scheme ” means an occupational pension scheme as defined in section 1 of the ^{M1} Pension Schemes Act 1993;
 - “the terminal period”, in the case of any guaranteed pension scheme, means—
 - (a) if a financial year of the scheme ends with the termination date, that financial year; or
 - (b) in any other case, so much of the financial year of the scheme in which the termination date falls as ends with that date;
 - “the termination date”, in the case of any guaranteed pension scheme, shall be construed in accordance with subsection (5)(b);
 - “the termination year”, in the case of any guaranteed pension scheme, means the financial year of the scheme which consists of or includes the terminal period;
 - “ trustees ”, in relation to a guaranteed pension scheme, includes a reference to any persons who, under the rules of the scheme, are under a liability to provide pensions or other benefits but who are not trustees of the scheme.]

Textual Amendments

- F4** S. 52B inserted (16.8.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9**; S.I. 1994/2142, **art. 2**
- F5** Word in s. 52B(10) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 10**; S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provisions and savings in **Sch. 2 Pt. II**)

Marginal Citations

- M1** 1993 c. 48.

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F⁶52C Adjustments arising in connection with orders under s.52B.

- (1) As soon as practicable after the termination date in the case of any guaranteed pension scheme, there shall be determined, for the terminal period, what proportion of the pensions, increases and expenses payable under, or incurred in connection with, the scheme corresponds to the relevant pension obligations.
- (2) Any determination under subsection (1) shall either—
 - (a) be made by the Minister; or
 - (b) if the Minister so requires in the particular case, be made by the actuary or auditor to the guaranteed pension scheme in question and approved by the Minister.
- (3) The Minister may give a direction to the persons administering a guaranteed pension scheme requiring them to determine the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the scheme for the terminal period or the termination year and to notify him in writing of their determination.
- (4) As respects the termination year of a guaranteed pension scheme, the extent of the liability of the Minister to make payments under section 52(1) in relation to that scheme shall be restricted to a liability to make payments of an amount (the “termination year amount”) equal in the aggregate to the product of—
 - (a) the proportion determined under section 54(1) for that scheme;
 - (b) the proportion determined pursuant to subsection (1) in the case of that scheme; and
 - (c) the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with that scheme in the terminal period;

and payments by way of adjustment shall be made by the Minister to the persons administering the scheme, or (as the case may be) by those persons to the Minister, before the expiration of the period of six months beginning with the date of the last of the determinations made under subsection (1) or (3) with respect to the scheme.
- (5) Where, in the case of a guaranteed pension scheme, the funding of the relevant pension obligations has, by virtue of subsection (3) of section 54, been left out of account in making a determination under subsection (1) of that section, the termination year amount in the case of that scheme shall be the difference between—
 - (a) what that amount would have been, apart from this subsection; and
 - (b) the amount of any income accruing for the terminal period which may be applied towards the payment of such of the pensions, increases and expenses payable under or incurred in connection with the scheme as correspond to those obligations.
- (6) The Minister may give a direction to the persons administering a guaranteed pension scheme requiring them to determine the amount mentioned in subsection (5)(b) and to notify him in writing of their determination.
- (7) Where payments by way of adjustment fall to be made, interest shall be payable, as from the termination date, by the person liable to make those payments, at the rates and intervals from time to time applicable for the purposes of section 52B(8)(a) in the case of the scheme in question, on so much of the aggregate amount of the payments in question as for the time being remains unpaid.
- (8) So much of—
 - (a) any payment by way of adjustment which falls to be made, or

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- (b) any interest accrued under subsection (7),
as has not been paid shall be treated as a debt due.
- (9) Any sums required for the making of payments under this section by the Minister shall be paid out of money provided by Parliament.
- (10) In this section, “payments by way of adjustment”, in the case of a guaranteed pension scheme, means—
- (a) if the Minister has made payments under section 52(1) in relation to that scheme for the termination year which, in the aggregate, exceed the termination year amount, payment to the Minister by the persons administering the scheme of an amount equal to the excess;
 - (b) if the Minister has made no payments under section 52(1) in relation to that scheme for the termination year, payment by the Minister to those persons of the termination year amount; or
 - (c) if the Minister has made payments under section 52(1) in relation to that scheme for the termination year which, in the aggregate, fall short of the termination year amount, payment by the Minister to those persons of an amount equal to the shortfall.
- (11) Expressions used in this section and in section 52B have the same meaning in this section as they have in that section.

Textual Amendments

F6 S. 52C inserted (16.8.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9**; S.I. 1994/2142, **art. 2**

[^{F7}52D Orders and directions under sections 52A to 52C: supplemental.

- (1) Any power to make an order under section 52B shall be exercisable by statutory instrument made by the Minister after consultation with the trustees of the guaranteed pension scheme to which the order relates.
- (2) A statutory instrument containing an order under section 52B shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) At the time when a statutory instrument containing an order under section 52B is laid before each House of Parliament pursuant to subsection (2), the Minister shall, if he has not already done so, also lay before each House of Parliament a copy of the guarantee mentioned in subsection (1)(c) of that section; but this subsection is without prejudice to the validity of the order in question.
- (4) Any power to make an order under section 52B includes power, exercisable in the same manner, to make such incidental, supplemental, consequential or transitional provision as may appear necessary or expedient to the Minister.
- (5) Any order under section 52B may make different provision for different cases or for different classes or descriptions of case.
- (6) It shall be the duty of any person to whom a direction is given under section 52A or 52C to comply with and give effect to that direction; and compliance with any such direction shall be enforceable by civil proceedings by the Minister for an injunction or interdict or for any other appropriate relief.

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- (7) Any power to give a direction under section 52A or 52C includes power to vary or revoke the direction.
- (8) Any direction under section 52A or 52C shall be given in writing.
- (9) In this section—
- “ guaranteed pension scheme ” has the same meaning as in section 52B;
- “ trustees ”, in relation to a guaranteed pension scheme, has the same meaning as in section 52B.]

Textual Amendments

F7 S. 52D inserted (6.4.1994 for the purpose of inserting s. 52D(6)(7)(8), otherwise 16.8.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9**; S.I. 1993/3237, **art. 2(2)**; S.I. 1994/2142, **art. 2**

53 Meaning of “the relevant pension to a obligations”.

- (1) In this Part “the relevant pension obligations”, in relation B.R. pension scheme, means subject to subsection (3)—
- (a) any obligations of the [^{F8}Authority which were owed by the Board] on 1st January 1975 (“the operative date”) in connection with the scheme; and
 - (b) where any such obligation is one to pay or secure the payment of pensions, any obligation of the [^{F8} Authority which arose as an obligation of the Board after the operative date or was never an obligation of the Board] to pay or secure the payment of increases of or sums representing accrued rights in respect of those pensions; and
 - (c) any obligation of the [^{F8}Authority which arose as an obligation of the Board after the operative date or was never an obligation of the Board]to pay or secure the payment of increases payable under the scheme, being increases of pensions payable under any other pension scheme established before that date (whether a B.R. pension scheme or not).
- (2) In this Part “the relevant pension obligations”, in relation to an N.F.C. pension scheme, means subject to subsection (3)—
- (a) any obligations of the successor company or a relevant subsidiary which were owed on 1st April 1975 (“the operative date”) in connection with the scheme; and
 - (b) where any such obligation is one to pay or secure the payment of pensions, any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases of or sums representing accrued rights in respect of those pensions; and
 - (c) any obligation of the successor company or a relevant subsidiary arising after the operative date to pay or secure the payment of increases payable under the scheme, being increases of pensions payable under any other pension scheme established before that date (whether an N.F.C. pension scheme or not); and
 - (d) any obligation of the successor company or a relevant subsidiary which results from an amendment made to the scheme by virtue of section 74 of the ^{M2}Transport Act 1962 after the operative date and before 1st January 1980, being (in each case) obligations which relate to employees or former employees of a relevant subsidiary or employees or former employees of the successor company

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or the Corporation who are or were employed as directors or managers of a relevant subsidiary.

- (3) The definitions in subsections (1) and (2) do not include—
- (a) any obligation to pay or secure the payment of increases of pensions in excess of increases payable on official pensions under the^{M3} Pensions (Increase) Act 1971 and section 59 of the^{M4} Social Security Pensions Act 1975;
 - (b) any obligation to pay contributions in respect of current periods of employment of a member of a scheme;
 - (c) any obligation to pay expenses incurred in connection with the management of a scheme which is specifically imposed on the body by which it is owed;
 - (d) any obligation owed by a body in their capacity as the trustees of a scheme or the persons administering a scheme; and
 - (e) subject to subsection (4), any obligation in respect of which the body by which it is owed have a right to be indemnified by any other body.
- (4) Subsection (3)(e) does not apply—
- (a) in the case of an obligation owed by the [F⁸Authority], where the [F⁸Authority] has a right to be indemnified by the successor company;
 - (b) in the case of an obligation owed by the successor company, where the successor company has a right to be indemnified by a relevant subsidiary;
 - (c) in the case of an obligation owed by the successor company, where the successor company has a right to be indemnified by the [F⁸Authority] and the obligation relates to employees or former employees of Freightliners Limited or employees or former employees of the successor company or the Corporation who are or were employed as directors or managers of Freightliners Limited;
 - (d) in the case of an obligation owed by a relevant subsidiary, where that subsidiary has a right to be indemnified by the successor company or by another relevant subsidiary; and
 - (e) in the case of an obligation owed by Freightliners Limited, where Freightliners Limited has a right to be indemnified by the [F⁸Authority].
- (5) In this section “relevant subsidiary” means National Carriers Limited, Freightliners Limited and any subsidiary of National Carriers Limited.
- (6) For the purposes of this section—
- (a) any increase in an obligation which results from an amendment made to a scheme after the operative date shall be treated as a separate obligation; and
 - (b) where at any time, whether before or after the operative date, any pensions or increases payable under a B.R. or N.F.C. pension scheme are or have been paid by any person, that person shall be treated as being or as having been under an obligation at that time to make those payments.

Textual Amendments

F8 Words in s. 53(1)(4) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 12**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provisions and savings in **Sch. 2 Pt. II**)

Marginal Citations

M2 1962 c. 46.

M3 1971 c. 56.

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M4 1975 c. 60.

54 Unfunded proportion of relevant pension obligations.

- (1) The Minister shall, in relation to each B.R. or N.F.C. pension scheme—
 - (a) determine, as soon as practicable after the passing of this Act, what proportion of the relevant pension obligations has not been funded; and
 - (b) after consulting with persons administering the scheme and the Board or, as the case may be, the successor company, confirm or vary that determination, before the end of the first financial year, by a further determination of that proportion contained in an order.
- (2) Where at the time when a determination under subsection (1) falls to be made any class of the relevant pension obligations appear to be completely funded, that class of obligations and their funding may, if the Minister thinks fit, be left out of account in making that determination.
- (3) Where at the time when a determination under subsection (1) falls to be made the assets by which the relevant pension obligations are funded appear to be insufficient to meet such of the pensions, increases and expenses payable under or incurred in connection with the scheme for the first financial year as correspond to those obligations, that funding may, if the Minister thinks fit, be left out of account in making that determination.
- (4) An order under subsection (1)—
 - (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament; and
 - (b) may be varied or revoked by a subsequent order made before the end of the first financial year.
- (5) References in subsection (1) to a determination or further determination made by the Minister shall include references to a determination or further determination made by the actuary to the scheme and approved by the Minister.

Modifications etc. (not altering text)

C4 S. 54 excluded (6.1.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 10(5)**; S.I. 1993/3237, **art.2(2)**

55 Proportion of pensions etc. which corresponds to relevant pension obligations.

- (1) The Minister shall, in relation to each B.R. or N.F.C. pension scheme and for each financial year—
 - (a) determine, before the beginning of the year or, in the case of the first financial year, as soon as practicable after the passing of this Act, what proportion of the pensions, increases and expenses payable under or incurred in connection with the scheme corresponds to the relevant pension obligations; and
 - (b) confirm or vary that determination, from time to time during the year and as soon as practicable after the end of the year, by a further determination of that proportion.
- (2) Where in the case of any such scheme any class of the relevant pension obligations and their funding have, by virtue of subsection (2) of section 54, been left out of

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account in making a determination under subsection (1) of that section, that class of obligations shall not be regarded as relevant pension obligations for the purposes of any determination under subsection (1).

- (3) References in subsection (1) to a determination or further determination made by the Minister shall include references to a determination or further determination made by the actuary or auditor to the scheme and approved by the Minister.

Modifications etc. (not altering text)

C5 S. 55 modified (6.1.1994) by 1993 c. 43, s. 134(1), Sch. 11 para. 10(7); S.I. 1993/3237, art.2(2)

56 Reduction of payments in respect of certain supplementation schemes.

- (1) This section applies where, in relation to a B.R. or N.F.C. pension scheme (“the supplementation scheme”), the relevant pension obligations include obligations arising after the passing of this Act to pay or secure the payment of increases of pensions payable under any other pension scheme, being a scheme established by the Board or the Corporation (“the basic scheme”).
- (2) If the actuary to the basic scheme certifies that the assets of that scheme exceed its liabilities, then, in relation to the supplementation scheme, any obligation arising after the date of the actuary’s certificate to pay or secure the payment of any increases of pensions payable under the basic scheme or, if less, the relevant proportion of any such increases shall not be regarded as a relevant pension obligation for the purposes of any determination under section 55(1).
- (3) In subsection (2) “the relevant proportion”, in relation to any increases, means, subject to subsection (4), the proportion (if any) certified by the actuary to the basic scheme to be the proportion of those increases which, if payable under that scheme, could be funded by 75 per cent. of the amount by which the assets of that scheme exceed its liabilities.
- (4) Where any obligation arising after the date of a certificate under subsection (3) is an obligation to pay or secure the payment of a proportion only of any increases to which the certificate relates, then, in relation to that obligation, the relevant proportion for the purposes of subsection (2) shall be given by the formula—

$$\frac{A + B - 1}{A}$$

where A is the first mentioned proportion and B is the proportion certified by the actuary.

- (5) The Minister may direct the persons administering the basic scheme—
- (a) to arrange for the actuary to the scheme to certify whether or not the assets of the scheme exceed its liabilities; and
- (b) to send a copy of the actuary’s certificate to the Minister;

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but no direction shall be given under this subsection within the period of three years beginning with the giving by the actuary of such a certificate.

- (6) References in this section to the assets and liabilities of the basic scheme are references to the assets and liabilities of that scheme so far as it relates to the payment of pensions increases of which are or are likely to become payable under the supplementation scheme.

57 Exclusion of payments in respect of certain transfer values.

Where the whole or any part of a person's accrued pension rights under a B.R. or N.F.C. pension scheme are transferred to any other pension scheme, being a scheme established by the Board or the successor company or any subsidiary of either of those bodies, the Minister may direct that for the purposes of—

- (a) any determination of the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the first-mentioned scheme; and
- (b) any determination under section 55(1) in relation to that scheme,

it shall be assumed that the said rights had not been transferred and that the payment of any sum representing those rights had not been made.

Modifications etc. (not altering text)

- C6 S. 57 extended by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 4, [Sch. 1 para. 1\(8\)\(9\)](#)
C7 S. 57 modified (6.1.1994) by [1993 c. 43, s. 134\(1\)](#), [Sch. 11 para. 10\(8\)](#); S.I. 1993/3237, [art.2\(2\)](#).

58 Consequential cancellation of debts owed by Board and Corporation.

- (1) In consequence of the foregoing provisions of this Part—
- (a) the debts owed by the Board by virtue of sections 5 and 6 of the ^{M5}Railways Act 1974 (funding of the relevant pension obligations of the Board); and
 - (b) the debts owed by the Corporation by virtue of sections 19 and 20 of the ^{M6}Transport Act 1978 (funding of the relevant pension obligations of the Corporation),
- are hereby cancelled and those sections are hereby repealed.
- (2) Any payments in respect of the principal of or interest on any such debt—
- (a) which are made on or after 1st April 1980 and before the passing of this Act to the persons administering a scheme to which this subsection applies; and
 - (b) in respect of which the Minister reimburses the Board or, as the case may be, the Corporation,
- shall be deemed to be payments made to those persons in advance under section 52(1), and any money which is deemed to be money so paid, and any investments representing any such money, shall be left out of account in making any determination under section 54(1).
- (3) Subsection (2) applies to any B.R. or N.F.C. pension scheme other than one in the case of which the relevant pension obligations have been completely funded.
- (4) The Minister may discharge his liability to make any payment under section 52(1) to the persons administering a scheme to which subsection (2) applies by appropriating

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to that payment so much of any money which is deemed to be money paid to those persons in advance under section 52(1) as, with the appropriate interest thereon, is equal to the amount of that payment.

- (5) Any money which is deemed to be money paid in advance under section 52(1) shall carry interest for the period beginning with the date on which it was paid to the persons administering the scheme and ending with the date on which it is appropriated by the Minister at such rate as the Minister may with the consent of the Treasury determine.

Marginal Citations

- M5 1974 c. 48.
M6 1978 c. 55.

59 Supplemental provisions.

- (1) The making of any payment under section 52(1) to the persons administering any B.R. or N.F.C. pension scheme shall not discharge any relevant pension obligation so far as it is an obligation to pay pensions or increases of pensions under the scheme or is an obligation to secure the payment of those pensions or increases.
- (2) If the persons administering any such scheme or any other pension scheme established by the Board or the Corporation have no power to amend the scheme apart from this subsection, they may amend it by instrument in writing for the purpose of—
- (a) enabling them to pay increases of any pensions payable under the scheme; or
 - (b) bringing the scheme into conformity with any provision of this Part;
- and the power of amending any such scheme apart from this subsection may for either purpose be exercised without regard to any limitations on the exercise of the power and without compliance with any procedural provisions applicable to its exercise.

60 Interpretation of Part III.

- (1) In this Part— [F9“the Authority” means the Strategic Rail Authority]“the Board” means the British Railways Board; “B.R. pension scheme” means any section of the British Railways Superannuation Fund specified in Schedule 8 or any other pension scheme so specified; “the Corporation” means the National Freight Corporation; “first financial year”, in relation to a B.R. or N.F.C. pension scheme, means such period as—
- (a) begins on 1st April 1980; and
 - (b) ends with the last day of an accounting year of the scheme,
- and is a period of not less than twelve months and less than two years, and “financial year”, in relation to any such scheme, means that period and each successive accounting year of the scheme; “N.F.C. pension scheme” means the National Freight Corporation (Salaries Staff) Pension Fund, the National Freight Corporation (Wages Grades) Pension Fund or the N.F.C. (1978) Pension Fund; “pension”, in relation to a B.R. or N.F.C. pension scheme, means any pension, whether contributory or not, payable under the scheme to or in respect of any person and includes—
- (a) a gratuity or lump sum so payable;
 - (b) a return of contributions to the scheme, with or without interest thereon or any other addition thereto;
 - (c) any sum payable under the scheme on or in respect of the death of any person;
- and

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- (d) any sum payable under the scheme in respect of any person and representing the whole or any part of his accrued pension rights under the scheme; "the relevant pension obligations" has the meaning given by section 53; "subsidiary" has the same meaning as in the Transport Act 1962; "the successor company" has the same meaning as in Part II.
- (2) For the purposes of this Part—
- (a) the B.R. (1974) Pension Fund shall be taken to comprise the pension schemes specified or described in the Schedule to the Central Trust deed within the meaning of the ^{M7} British Railways (Central Trust) Order 1974; and
- (b) the N.F.C. (1 978) Pension Fund shall be taken to comprise the pension schemes specified or described in the Schedule to the Central Trust deed within the meaning of the ^{M8} National Freight Corporation (Central Trust) October 1978.
- (3) References in this Part to any pension scheme established by the Board include references to any scheme in relation to which the rights, liabilities and functions of the British Transport Commission were transferred to the Board by the ^{M9} British Transport Reorganisation (Pensions of Employees) (No. 3) Order 1962.
- (4) In relation to any time before the day appointed by the Minister for the purposes of Part II, references in this Part to the successor company shall be construed as references to the Corporation.

Textual Amendments

- F9** S. 60(1): definition of
"the Authority"
inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 13**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provisions and savings in **Sch. 2 Pt. II**)

Modifications etc. (not altering text)

- C8** 1.10.1980 appointed for the purposes of Part II by S.I 1980/1380, art. 3

Marginal Citations

- M7** S.I. 1974/2001.
M8 S.I. 1978/1290.
M9 S.I. 1962/2758.

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Changes to legislation:

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