

Changes to legislation: Railways Act 1993, Cross Heading: Government guarantees to trustees of certain new schemes is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 11

PENSIONS

Modifications etc. (not altering text)

- C1** Sch. 11 modified (8.6.2005 for certain purposes and 24.7.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 12, 60, Sch. 2 para. 9(1)(c); S.I. 2005/1444, art. 2(1), Sch. 1; S.I. 2005/1909, art. 2, Sch.
- C1** Sch. 11: power to modify conferred (8.6.2005) by virtue of Railways Act 2005 (c. 14), ss. 1(8)(b), 60; S.I. 2005/1444, art. 2(1), Sch. 1

Government guarantees to trustees of certain new schemes

- 11 (1) Subject to the following provisions of this paragraph, the Secretary of State—
- (a) shall give to the trustees of any new scheme which satisfies the conditions in sub-paragraph (3) below, and
 - (b) may give to the trustees of any new scheme which satisfies the conditions in sub-paragraph (4) below,
- a guarantee in respect of their liabilities to make payments in respect of pension rights under the scheme.
- (2) This paragraph applies in relation to a section of a new scheme as it applies in relation to a new scheme; and any reference in this paragraph to a new scheme, a closed scheme, a pension scheme or a member shall be construed accordingly.
- (3) A new scheme satisfies the conditions in this sub-paragraph if—
- (a) all the members of the scheme are persons whose pension rights under the scheme are pension rights which have been transferred, so as to become pension rights under that scheme, pursuant to an order under paragraph 4 above; and
 - (b) the rules of the scheme prevent any member of the scheme from being a participant in the scheme.
- (4) A new scheme satisfies the conditions in this sub-paragraph if—
- (a) the scheme is a closed scheme; and
 - (b) at the date on which the scheme becomes a closed scheme, all the members of the scheme are—
 - (i) participants in the scheme to whom pension rights under the scheme are accruing by virtue of their employment with a relevant employer; or
 - (ii) pensioners or deferred pensioners under the scheme whose pension rights under the scheme derive in whole or in part from their, or some

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other person's, participation in an occupational pension scheme as an employee of a relevant employer.

- (5) Classes or descriptions of person may be prescribed whose membership of, or participation in, a new scheme is to be disregarded for the purpose of determining whether the new scheme satisfies the conditions in sub-paragraph (3) or (4) above.
- (6) The power to give a guarantee under sub-paragraph (1)(b) above becomes exercisable in the case of any new scheme if the Secretary of State is of the opinion that it is desirable to give such a guarantee for the purpose of ensuring that the trustees of the scheme are, or will be, able to meet their liabilities to make payments in respect of pension rights under the scheme as those liabilities fall to be met.
- (7) The Secretary of State shall consider any representations made by the trustees of a new scheme which satisfies the conditions in sub-paragraph (4) above concerning their ability to meet their liabilities to make payments in respect of pension rights under the scheme.
- (8) Any guarantee under this paragraph shall be given in such manner, and on such terms and conditions, as the Secretary of State may, after consultation with the trustees of, and the actuary to, the scheme in question, think fit; and, without prejudice to the generality of the foregoing provisions of this sub-paragraph, the terms and conditions on which a guarantee under this paragraph may be given include terms and conditions—
- (a) with respect to any matter relating to payment under the guarantee, including—
 - (i) the circumstances in which payment under the guarantee falls to be made;
 - (ii) the amounts, or the method of determining the amounts, of any payments that fall to be so made;
 - (iii) the persons to whom any such payments are to be made;
 - (b) with respect to any matter relating to the management, affairs or winding up of the scheme, including—
 - (i) the policy to be followed in relation to the investment of assets held for the purposes of the scheme; and
 - (ii) the distribution of any surplus which may arise under the scheme; or
 - (c) requiring or precluding, or otherwise with respect to, amendment of the rules of the scheme;
- and the sub-paragraphs of paragraphs (a) and (b) above are without prejudice to the generality of the preceding provisions of the paragraph in question.
- (9) Any sums required by the Secretary of State to fulfil a guarantee given under this section shall be paid out of money provided by Parliament.
- (10) In this paragraph—
- “closed scheme” means a pension scheme—
 - (a) to which no new members are to be admitted; but
 - (b) under which pensions and other benefits continue to be provided;
 - “deferred pensioner”, in the case of any pension scheme, means a person who has pension rights under the scheme but who (so far as relating to those pension rights) is neither a participant in the scheme nor a pensioner under the scheme;

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“relevant employer” means—

- (a) the Board;
- (b) a wholly owned subsidiary of the Board; ^{F1} . . .
- (c) a publicly owned railway company ^{F1} . . .
- ^{F2}(d) the Authority; or
- (e) a wholly owned subsidiary of the Authority.]

Textual Amendments

- F1** Words in paras. (b)(c) in the definition of “relevant employer” in Sch. 11 para. 11(10) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F2** Paras. (d)(e) in the definition of “relevant employer” in Sch. 11 para. 11(10) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 49(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13B(7) inserted by [2024 c. 13 Sch. 30 para. 18\(5\)](#)
- s. 15C(5) inserted by [2024 c. 13 Sch. 30 para. 19\(5\)](#)
- s. 16(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 6(4)(b) (as substituted) by [S.I. 2019/1245 reg. 23](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 67(11) inserted by [2024 c. 13 Sch. 29 para. 10](#)
- s. 145(3)(w) inserted by [2024 c. 13 Sch. 30 para. 20\(b\)](#)
- s. 145(3)(qu) omitted by [2024 c. 13 Sch. 30 para. 20\(a\)](#)
- Sch. 4A para. 10A(7) inserted by [2024 c. 13 Sch. 30 para. 22\(5\)](#)
- Sch. 4A para. 15(5) inserted by [2024 c. 13 Sch. 30 para. 23\(5\)](#)