
Status: Point in time view as at 06/01/1994. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Paragraph 10. (See end of Document for details)

SCHEDULES

SCHEDULE 11

PENSIONS

Application and modification of Part III of the 1980 Act

- 10 (1) The Secretary of State may by order designate—
- (a) any occupational pension scheme which would not, apart from this paragraph, be included among the pension schemes which are B.R. pension schemes for the purposes of Part III of the 1980 Act, or
 - (b) any section of an occupational pension scheme, being a section which would not, apart from this paragraph, be included among those schemes,
- as a pension scheme which is to be treated as included among those schemes for the purpose of requiring or enabling him to make to the persons administering the scheme payments under section 52(1), 52A, 52B or 52C of that Act in respect of qualifying pension rights transferred (whether under paragraph 4 above or otherwise) so as to become pension rights under that scheme.
- (2) An order under sub-paragraph (1) above may make provision, in any case where qualifying pension rights of any persons are, or are to be, transferred as mentioned in that sub-paragraph, for treating those persons as constituting a section of the occupational pension scheme to which those qualifying pension rights are, or are to be, so transferred.
- (3) No order shall be made under sub-paragraph (1) above except after consultation with the trustees of the occupational pension scheme to which the qualifying pension rights are, or are to be, transferred.
- (4) Subject to the following provisions of this paragraph, Part III of the 1980 Act shall have effect as if any reference in that Part to a B.R. pension scheme included a reference to a designated scheme.
- (5) Where qualifying pension rights are transferred to a designated scheme as mentioned in sub-paragraph (1) above, the proportion referred to in section 52(1)(a) of the 1980 Act in its application by virtue of this paragraph in relation to the designated scheme shall, instead of being determined under section 54 of that Act, be taken to be the proportion which has been determined under that section in relation to the B.R. pension scheme from which the qualifying pension rights are transferred; and references in Part III of that Act to that proportion shall be construed accordingly.
- (6) In the application of Part III of the 1980 Act in relation to a designated scheme, references in that Part to “the relevant pension obligations” shall, in relation to the designated scheme, be construed—
- (a) as if the reference in section 53(1)(a) of that Act to obligations of the Board which were owed on 1st January 1975 in connection with the scheme were a

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reference to so much of the obligations of the Board which were owed on that date in connection with a B.R. pension scheme as are obligations in respect of qualifying pension rights transferred to the designated scheme; and

- (b) as if the reference in section 53(1)(c) of that Act to an obligation of the Board arising after that date to pay or secure the payment of increases payable under the scheme included a reference to so much of any such obligation of the Board in respect of a B.R. pension scheme as is an obligation in respect of qualifying pension rights transferred to the designated scheme.

- (7) In the application of section 55 of the 1980 Act in relation to a designated scheme, paragraph (a) of subsection (1) (which requires the proportion of the scheme's outgoings which corresponds to the relevant pension obligations to be determined before the beginning of each financial year or, in the case of the first financial year, as soon as practicable after the passing of that Act) shall be taken to require the proportion mentioned in that paragraph to be determined—

- (a) before the beginning of the financial year in question, or
 - (b) as soon as practicable after the coming into force of the order under sub-paragraph (1) above by virtue of which the scheme in question is a designated scheme,

and paragraph (b) of that subsection shall be construed accordingly.

- (8) The power to give a direction under section 57 of the 1980 Act (which provides for certain determinations to be made as if no transfer had taken place and as if no payment representing the pension rights in question had been made) shall be exercisable in any case where the whole or any part of a person's accrued pension rights under a B.R. pension scheme or a designated scheme are transferred (whether under paragraph 4 above or otherwise) to—

- (a) a designated scheme, or
 - (b) a pension scheme established by the Board,

as it is in the case of any such transfer as is mentioned in that section.

- (9) Without prejudice to sub-paragraph (8) above, where in any financial year the whole or any part of a person's accrued pension rights under a B.R. pension scheme are transferred to a designated scheme, it shall be assumed, for the purposes of any determination of the aggregate amount of the pensions, increases and expenses payable under or incurred in connection with the B.R. pension scheme in that financial year, that the payment of any sum representing those pension rights had not been made.

- (10) Without prejudice to section 59(1) of the 1980 Act (which provides that the making of payments under section 52(1) does not discharge certain relevant pension obligations), the making of any payment under section 52(1) of the 1980 Act to the persons administering a designated scheme shall not discharge any relevant pension obligation, so far as it is an obligation to pay pensions or increases of pensions under that or any other designated scheme, or under a B.R. pension scheme, or is an obligation to secure the payment of those pensions or increases.

- (11) Without prejudice to section 59(2) of the 1980 Act (power to amend pension scheme for certain purposes), if the persons administering an occupational pension scheme would not otherwise have power to do so, they may amend the scheme by instrument in writing for the purpose of enabling persons to be admitted as members of the scheme on the basis that payments will fall to be made under Part III of the 1980

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Act in respect of qualifying pension rights of theirs which are transferred so as to become pension rights under the scheme.

- (12) Where the persons administering an occupational pension scheme have power, apart from sub-paragraph (11) above, to amend the scheme for the purpose mentioned in that sub-paragraph, they may exercise that power for that purpose without regard to any limitations on the exercise of the power and without compliance with any procedural provisions applicable to its exercise.
- (13) Any reference in Part III of the 1980 Act to a “financial year” shall, in relation to a designated scheme, be taken as a reference—
- (a) to such period as—
 - (i) begins with the transfer of the qualifying pension rights in question, and
 - (ii) 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
 - (b) to each successive accounting year of that scheme.
- (14) Where any provision of Part III of the 1980 Act requires anything to be done in, or in relation to, the first financial year of a B.R. pension scheme, that provision shall (so far as so requiring) be disregarded in the application of that Part in relation to a designated scheme.
- (15) In any case where—
- (a) the whole or any part of a person’s accrued pension rights under a B.R. pension scheme are transferred so as to become pension rights under a designated scheme, and
 - (b) immediately before that transfer takes effect, relevant pension obligations a proportion of which, as determined for the purposes of section 52(1)(a) of the 1980 Act, has not been funded are owed in respect of those pension rights by the Board to the persons administering the pension scheme from which the pension rights are so transferred,
- an order under sub-paragraph (1) above may provide for the benefit of that proportion of so much of those relevant pension obligations as are owed in respect of those pension rights to be transferred, so as to become relevant pension obligations owed by the Board to the persons administering the pension scheme to which the pension rights are transferred.
- (16) Where the benefit of any relevant pension obligations is transferred by virtue of sub-paragraph (15) above, the persons administering the pension scheme to which the benefit of those obligations is transferred shall have, in relation to the relevant pension obligations the benefit of which is so transferred, all the rights of the persons administering the pension scheme from which the benefit of those obligations is transferred.
- (17) In this paragraph—
- “the 1980 Act” means the ^{M1}Transport Act 1980;
 - “designated scheme” means an occupational pension scheme or, as the case may be, a section of any such scheme, which is designated under sub-paragraph (1) above;
 - “pension scheme” includes a section of a pension scheme;
 - “qualifying pension rights” means any pension rights as respects the whole or some part of which there are subsisting relevant pension obligations

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a proportion of which, as determined for the purposes of section 52(1)(a) of the 1980 Act, has not been funded;
and, subject to that, expressions used in this paragraph and in Part III of the 1980 Act have the same meaning in this paragraph as they have in that Part.

Marginal Citations

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