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STATUTORY INSTRUMENTS

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**1994 No. 1432**

**The Railway Pensions (Protection and Designation of Schemes) Order 1994**

**PART II**

*Protected Persons*

**Obligation to provide a scheme**

4.—(1) Any person who employs a protected employee shall provide an occupational pension scheme in which that employee may participate and to which the transfer value in respect of his relevant pension rights which he has acquired, other than any relevant pension rights acquired on the death of a protected person, may be transferred.

(2) An occupational pension scheme which is provided in accordance with paragraph (1) shall include provision under which—

(a) a protected employee may acquire—

(i) relevant pension rights in respect of any transfer value paid to that scheme, which are no less favourable than his relevant pension rights in the scheme from which he is transferring in respect of which that transfer value has been paid; and

(ii) relevant pension rights in respect of any participation by that employee in that scheme which are no less favourable than the relevant pension rights which he had under his designated scheme;

(b) the trustees are required to obtain, at intervals of not more than 18 months calculated from the relevant date in relation to that scheme, accounts which show a true and fair view of the financial transactions of the scheme and which have been audited by a person who has been appointed by the trustees and who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989<sup>(1)</sup> or a person who holds a qualification, obtained outside the United Kingdom, which is recognised by the Secretary of State as being adequate for the performance of that function.

(3) For the purposes of this article, and articles 5 and 6, in making any determination as to whether any relevant pension rights in an occupational pension scheme are more or less favourable than any such rights in the designated pension scheme of the protected person in question (or, where the context requires, any other scheme) regard shall be had to the provisions of the schemes as a whole and the circumstances and manner in which that designated scheme permitted (or the other scheme in question permits or permitted) increases in contributions or reductions in accrued or accruing benefits.

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(1) 1989 c. 40.