
STATUTORY INSTRUMENTS

1994 No. 1432

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

PART II

Protected Persons

Scheme amendment, transfer and winding up

6.—(1) Any amendment of an occupational pension scheme which would otherwise have the effect of making the relevant pension rights of a protected person less favourable than the relevant pension rights in his designated scheme shall have no effect in relation to those rights.

(2) Any transfer of the relevant pension rights of a protected person from one occupational pension scheme to another such scheme shall have no effect until the trustees of the scheme from which those rights are to be transferred have, wholly or to the extent that they are able—

- (a) under the provisions of that scheme; and
- (b) from the share of the fund of that scheme, as determined by the trustees, which is in the opinion of the scheme actuary attributable to the protected person whose rights are to be transferred;

paid a transfer value in respect of those rights which is not less than the higher of the amounts for which provision is made in paragraph (3) or (4), as calculated by the scheme actuary of the scheme from which those rights are to be transferred.

(3) The transfer value calculated under this paragraph shall be the amount which is necessary to provide the benefits to which that protected person would have been entitled under the occupational pension scheme from which he is to transfer and, for the purposes of this determination, the scheme actuary shall have regard to all relevant matters including—

- (a) the relevant pension rights which the protected person in question has acquired in the transferor scheme; and
- (b) any increase in the value of those rights which is attributable to any increase in the final earnings of that person which, but for the transfer, would have been expected.

(4) The transfer value calculated under this paragraph shall be of such an amount as, in the case of the protected person in question, is equal to the cash equivalent, calculated in accordance with the provisions of Chapter IV of Part IV of the Pensions Schemes Act 1993(1) or, where it applies, Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993(2).

(5) The trustees of a scheme to which a transfer value is paid in accordance with this Order shall provide, to or in respect of the person for whom it was paid, relevant pension rights which—

- (a) as respects such rights which accrued up to the date of the transfer, are no less favourable than the relevant pension rights which were the relevant pension rights of the protected

(1) 1993 c. 48.
(2) 1993 c. 49.

person in question immediately before his transfer under the scheme from which he transferred; and

- (b) as respects the accrual of relevant pension rights after that date, are no less favourable than the relevant pension rights which he had under his designated scheme.

(6) No person mentioned in paragraph 7(2) of Schedule 11 shall wind up an occupational pension scheme, or part of such a scheme, in which a protected person has relevant pension rights unless the steps set out in paragraph (7) or (8) have first been taken and any such steps which are taken without first complying with those requirements, as the circumstances may require, shall have no effect.

(7) Where the protected person in question is a protected employee, his employer has—

- (a) provided a replacement scheme to which relevant pension rights may be transferred; and
- (b) taken all reasonable steps to ensure that the relevant pension rights of the person in question shall be no less favourable than—

- (i) as respects relevant pension rights accrued up to the date of the transfer, the relevant pension rights of the protected person in question immediately before his transfer under the scheme from which he is to transfer; and
- (ii) as respects the accrual of relevant pension rights after that date, the relevant pension rights which he had under his designated scheme.

(8) In any case to which paragraph (7) does not apply, the person who has power to pay the transfer value in respect of the relevant pension rights of the protected person in question has paid an amount into a replacement arrangement which is sufficient to secure relevant pension rights which, in the opinion of the scheme actuary, immediately before the transfer are no less favourable than that person's relevant pension rights were under the scheme from which he is to be transferred.