
STATUTORY INSTRUMENTS

1994 No. 1432

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

PART II

Protected Persons

Contributions

7.—(1) Subject to the following paragraphs of this article, where any person mentioned in paragraph 7(2) (protection: supplementary provisions) of Schedule 11 is under a duty to contribute to—

- (a) a section of an occupational pension scheme in which a protected person has relevant pension rights; or
- (b) where sub-paragraph (a) does not apply, an occupational pension scheme in which a protected person has relevant pension rights;

the contributions which that person shall make under that duty shall be not less than such amount as, in the opinion of the scheme actuary, shall be sufficient to make provision in respect of the rights specified in paragraph (2) after having taken into account all of the relevant matters, including the resources of the occupational pension scheme or the relevant section of it and any employee contributions.

(2) The following rights are specified for the purposes of paragraph (1)—

- (a) the pension rights which, at the date in respect of which the scheme actuary gives that opinion, have been accrued under that scheme or section or been transferred to it in accordance with article 6;
- (b) any pension rights which are accruing in respect of current participation in that scheme or section; and
- (c) where provision is made in the rules of the scheme or section for the future enhancement of those rights in consequence of increases in remuneration, any such enhancement of those rights.

(3) No obligation to make contributions arises under paragraph (1) in any case where, in the opinion of the scheme actuary, the funds of the occupational pension scheme or section in question are sufficient for the purpose mentioned in that paragraph.

(4) Where relevant pension rights are transferred from one occupational pension scheme to another such scheme and the transfer value paid by the trustees of the transferring scheme under article 6(2) in respect of those relevant pension rights is less than the amount which, in the opinion of the scheme actuary of the transferring scheme, would have been required to provide no less favourable relevant pension rights under the transferring scheme as required under article 6(5)—

- (a) the person who is required under article 4 to provide the scheme from which those rights are transferred shall pay or secure the payment to the trustees of the scheme to which those

rights are transferred the difference (if any) between the amounts calculated under article 6(2) and 6(5)(a); and

- (b) without prejudice to the obligation imposed by sub-paragraph (a), the person who is required under article 4 to provide the scheme to which those rights are transferred shall pay or secure the payment to the trustees of that scheme of such part of any difference between the amounts calculated under article 6(2) and 6(5)(a) as is not paid to the trustees of that scheme under that sub-paragraph.

(5) The trustees of any occupational pension scheme, or any section of such a scheme, in which there are relevant pension rights shall not exercise any of their powers so as to—

- (a) increase any contributions which are payable to that scheme or section by a protected employee; nor
- (b) reduce any benefits which are payable in respect of any protected person;

unless that increase, or as the case may be reduction, is made in the circumstances and manner in which it could have been made under the designated scheme of the person in question and the scheme actuary has, within the period of 6 months which immediately precedes any such increase or reduction, advised the trustees that it may or should be made.

(6) The trustees of any occupational pension scheme, or any section of such a scheme, in which there are relevant pension rights shall obtain an opinion from the scheme actuary for the purposes of paragraph (1) where—

- (a) a period of 3 and a half years has elapsed since an opinion has been obtained in accordance with this paragraph or paragraph (5);
- (b) a period of 3 and a half years has elapsed since the relevant date in relation to that scheme and no opinion has been obtained in accordance with this paragraph or paragraph (5) since that date;
- (c) circumstances have arisen in which it is appropriate for the scheme actuary to give a further opinion for the purposes of Part III of the Pension Schemes Act 1993(1) or Part III of the Pension Schemes (Northern Ireland) Act 1993(2), or in which it would be appropriate for the scheme actuary to give such an opinion if the scheme in question were contracted-out within the meaning of either of those Acts; or
- (d) the scheme or section in question is to be wound-up in whole or in part.

(7) Where the opinion or advice of the scheme actuary has been given under this article, he shall (as soon as is reasonably practical) provide to the trustees of the scheme or section in question a schedule which specifies the contributions which are required, and the dates on which they are required, in order to meet the liabilities of that scheme or section.

(1) 1993 c. 48.

(2) 1993 c. 49.