

SCHEDULE 3

Article 4

Amendment of Existing Schemes

1. In the trust deed dated 22nd November 1974 of the B. R. (1974) Pension Fund the following Clause shall be inserted after Clause 13A—

“13B

(1) Subject to the following provisions of this Clause, the Trustees shall, in addition to any other power which they may have, have power with the consent of the Board to make amendments by deed to any trust deed of the schemes mentioned in paragraphs 1 and 2 of the Schedule, any rules of those schemes or other instrument relating to their constitution, management or operation.

(2) The power of the Trustees under subclause (1) above shall be exercisable only for the purpose of—

- (i) permitting the members of either of those schemes to be eligible to continue or cease to be members;
- (ii) permitting persons to be eligible to become beneficiaries (but not members) of those schemes;
- (iii) making provision for the participation, and the ceasing of participation, in those schemes by any employer of persons who have been employed by the Board or any of its subsidiaries;
- (iv) prohibiting the admission of new members to those schemes;
- (v) winding up those schemes in whole or in part; and
- (vi) making provision relating to the administration and expenses of those schemes in so far as such provision is consequential on any amendment made under subclause (1).

(3) No amendment may be made under subclause (1) which would have the effect of—

- (i) prejudicing any approval of the scheme in question for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988⁽¹⁾ (retirement benefit schemes);
- (ii) preventing that scheme from being a contracted-out scheme for the purposes of Part III of the Pension Schemes Act 1993⁽²⁾ or Part III of the Pension Schemes (Northern Ireland) Act 1993⁽³⁾;
- (iii) to any extent depriving a member of that scheme of pension rights which accrued to him under the scheme before the coming into force of the amendment; or
- (iv) providing for any person to become a member of that scheme who is not an eligible person.

In this sub-clause “eligible person” and “member” shall have the meanings they bear in Schedule 11 to the Railways Act 1993.

(4) This Clause shall not be cancelled or modified under Clause 13A above.

(5) Any amendment made under this Clause shall not, without the consent of the Trustees, be—

(1) 1988 c. 1.
(2) 1993 c. 48.
(3) 1993 c. 49.

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- (i) amended under the powers to which reference is made in Clause 13 above;
or
(ii) cancelled or modified under the powers contained in Clause 13A above.”

2.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, in each of the instruments relating to the existing schemes listed in Column 1 of the Table below, there shall be inserted in the position specified in Column 2 of that Table in relation to that instrument the following Clause which shall bear the number specified in Column 3 of that Table in relation to that instrument:—

“(1) With effect from 1st October 1994, British Railways Board and the other employers (if any) participating from time to time in the Fund (together “the Employers”) shall indemnify the trustees from time to time of the Fund (“the Trustee”) and the Trustee’s subsidiaries and their respective officers and employees and the members of the Committee of Management (if any) against all liabilities and expenses arising out of the purported execution of the trusts, powers, duties and authorities imposed or conferred on them by or under the Fund or by any purported delegation or sub-delegation of such trusts, powers, duties and authorities, to whomsoever such liabilities may be incurred. This indemnity does not, however, apply to liabilities and expenses which are due to the personal conscious wrongdoing or recklessness of any officer or employee of the Trustee or its subsidiaries or of any member of the Committee of Management nor, in the case of any such person who carries on or who is involved in the carrying on of the business of professional trustee, to negligence. The liability of British Railways Board and of each Employer shall, however, be limited to the proportion of the total liability arising under this paragraph that the Trustee, having regard to actuarial advice, determines to be appropriate in all the circumstances.

(2) With the consent of British Railways Board, the Trustee may insure the Fund against any loss caused to it by its employees, officers, subsidiaries, agents or delegates or by any member of the Committee of Management and may also insure itself and any of its employees, officers, subsidiaries, agents or delegates or any member of the Committee of Management against liability for breach of trust not involving the personal conscious wrongdoing or recklessness of the person concerned (and, in the case of a person who carries on or is involved in the carrying on of the business of professional trustee, not involving the negligence of the person concerned). British Railways Board and the Trustee shall agree the terms of any such insurance (including terms as to payment). To the extent that the Trustee secures payment under any such insurance, paragraph (1) above shall not apply.”

TABLE

Column 1 INSTRUMENTS	Column 2 POSITION	Column 3 NUMBER
The Trust Deed of the B.R. (1974) Pension Fund, dated 22nd November 1974	After Clause 11	Clause 11A
The Rules of the British Railways Superannuation Fund, dated as at July 1991	After Rule 2	Rule 2A
The Revised Trust Deed of the British Transport Police Force Superannuation Fund, dated 2nd November 1993	After Clause (11)	Clause (11A)
The Rules of the Great Western Railway Inspectors and	After Rule 9	Rule 9A

Column 1 INSTRUMENTS	Column 2 POSITION	Column 3 NUMBER
Foremen's Special Pension Fund, dated 31st March 1926		
The Rules of the Great Western Railway Salaried Staff Supplemental Pension Fund, dated 31st March 1926	After Rule 9	Rule 9A
The Rules of the Great Western Railway Salaried Staff Widows' and Orphans' Pension Society, establishing the Society on 25th December 1921	After Rule 29	Rule 29A
The Trust Deed of the Great Western Railway Supplemental Pension Reserve Fund, dated 30th May 1930	After Clause 6C	Clause 6D
The Rules of the London and North Western Railway Provident Society for providing pensions for the widows and orphans of the salaried staff dated 1st October 1945	After Rule 52	Rule 52A

(2) In the following instruments the Clause set out in sub-paragraph (1) above shall be modified as follows:—

- (a) in the instrument relating to the British Transport Police Superannuation Fund for all references to the “Fund” there shall be substituted references to the “Joint Fund”; and
- (b) in the instruments relating to the Great Western Railway Salaried Staff Widows' and Orphans' Pension Society and the London and North Western Railway Provident Society for providing pensions for the widows and orphans of the salaried staff, for all references to the “Fund” there shall be substituted references to the “Society”.

(3) In this Schedule, any reference to an instrument shall be taken to be a reference to that instrument as amended.