
STATUTORY INSTRUMENTS

1995 No. 430

TRANSPORT

**The Railway Pensions (Substitution and
Miscellaneous Provisions) Order 1995**

Made - - - - 23rd February 1995
Laid before Parliament 23rd February 1995
Coming into force - - 12th March 1995

Whereas the Secretary of State on 8th and 30th September 1994 gave a guarantee under paragraph 11 of Schedule 11 to the Railways Act 1993⁽¹⁾ in relation to the 1994 Pensioners “A” Section and the 1994 Pensioners “B” Section respectively of the Railways Pension Scheme (defined in the following Order⁽²⁾), being a new scheme within the meaning of the said Schedule 11;

And whereas the Secretary of State⁽³⁾ has laid before each House of Parliament a copy of each of the said guarantees in accordance with section 52D(3) of the Transport Act 1980⁽⁴⁾;

And whereas the 1994 Pensioners “B” Section includes the Paragraph 2 Section and the Paragraph 5 Section (defined in the following Order⁽²⁾), which sections are designated under paragraph 10(1) of Schedule 11 to the Railways Act 1993;

And whereas the Secretary of State has consulted with the trustees of the Paragraph 2 Section and the Paragraph 5 Section in accordance with section 52D(1) of the Transport Act 1980;

Now therefore, the Secretary of State, in exercise of the powers conferred on him by sections 52B and 52D(4) and (5) of the Transport Act 1980⁽⁵⁾ and all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Railway Pensions (Substitution and Miscellaneous Provisions) Order 1995 and shall come into force on 12th March 1995.

(2) In this Order—

(1) 1993 c. 43.

(2) See article 1(2).

(3) See the definition of “Minister” in section 70(2) of the Transport Act 1980, as amended by paragraph 9(4) of Schedule 11 to the Railways Act 1993.

(4) 1980 c. 34; section 52D was inserted by paragraph 9(3) of Schedule 11 to the Railways Act 1993.

(2) See article 1(2).

(5) Section 52B was inserted by paragraph 9(3) of Schedule 11 to the Railways Act 1993.

“actuarial valuation” means an actuarial valuation of the Railway Pension Scheme made by the actuaries under the second paragraph of Clause 6B (Actuarial Valuations) of the Railways Pension Scheme or such other actuarial valuation made by the actuaries as the Secretary of State and the trustee of the Railways Pension Scheme may agree shall constitute an actuarial valuation for the purposes of this Order;

“actuaries” means the actuary appointed by the trustee of the Railways Pension Scheme under Clause 6B of that Scheme and the Government Actuary;

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales;

“the 1994 Order” means the Railway Pensions (Substitution) Order 1994(6);

“the Paragraph 2 Section” means the section of the Railways Pension Scheme designated in paragraph 2 of Schedule 5 to the Railway Pensions (Transfer and Miscellaneous Provisions) Order 1994(7) as a pension scheme which is to be treated as included among those schemes which are B.R. pension schemes for the purposes of Part III of the Transport Act 1980;

“the Paragraph 5 Section” means the section of the Railways Pension Scheme designated in paragraph 5 of Schedule 5 to the Railway Pensions (Transfer and Miscellaneous Provisions) Order 1994 as a pension scheme which is to be treated as included among those schemes which are B.R. pension schemes for the purposes of Part III of the Transport Act 1980;

“the Railways Pension Scheme” means the occupational pension scheme established by the Railways Pension Scheme Order 1994(8), as amended by the Railway Pensions (Transfer and Miscellaneous Provisions) Order 1994(9) and by three deeds, two dated 8th September 1994 and one dated 30th September 1994, made by the trustee of the scheme;

“retail prices index” means the general index of retail prices (for all items) published by the Central Statistical Office;

“valuation date” means, in relation to any actuarial valuation, the date at which that valuation is made; and

a reference to an actuarial valuation which has been signed shall be taken to be a reference to an actuarial valuation which has been signed by or on behalf of the actuaries, and cognate expressions shall be construed accordingly.

(3) Where this Order requires any payment to be made on any particular day that payment shall be made on that day, or if that day is not a business day on the next following business day.

(4) Except so far as the context otherwise requires, any reference in this Order to a numbered article is to the article in this Order which bears that number.

2. The date which, for the purposes of section 52B of the Transport Act 1980, is to be the termination date in relation to the Paragraph 2 Section is 13th April 1995, and the liability of the Secretary of State to make to the persons administering the Paragraph 2 Section payments under section 52(1) of the Transport Act 1980 in relation to that section shall not continue after that date.

3. As at the termination date in relation to the Paragraph 2 Section the capital value of the unfunded obligations in the case of that section is £3,508,000, such amount having been determined by the Secretary of State.

4. The date which, for the purposes of section 52B of the Transport Act 1980, is to be the termination date in relation to the Paragraph 5 Section is 13th April 1995, and the liability of the

(6) S.I. 1994/2388.

(7) S.I. 1994/2005.

(8) S.I. 1994/1433.

(9) See article 5 and Schedule 4.

Secretary of State to make to the persons administering the Paragraph 5 Section payments under section 52(1) of the Transport Act 1980 in relation to that section shall not continue after that date.

5. As at the termination date in relation to the Paragraph 5 Section the capital value of the unfunded obligations in the case of that section is £36,000, such amount having been determined by the Secretary of State.

6.—(1) Schedules 1 and 2 to this Order shall have effect for the purpose of—

- (a) requiring the Secretary of State to make payments in respect of the capital values of the unfunded obligations specified in articles 3 and 5; and
- (b) providing for the accrual and payment of interest on the outstanding balances of the capital values of the unfunded obligations specified in articles 3 and 5.

(2) Any payment required to be made by the Secretary of State under Schedule 1 or 2 shall be made to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

7.—(1) The obligations to make payments under Schedules 1 and 2 to this Order shall be discharged if both the Paragraph 2 Section and the Paragraph 5 Section (“the sections”) have, in the opinion of the Secretary of State, been wound up.

(2) Where it appears to the Secretary of State that the sections may have been wound up the Secretary of State shall consult with the trustee of the Railways Pension Scheme.

(3) The Secretary of State shall notify the trustee of the Railways Pension Scheme of any determination by him that in his opinion the sections have been wound up.

(4) For the avoidance of doubt, the obligations to make payments under Schedules 1 and 2 to this Order shall not be discharged by virtue only of the 1994 Pensioners “B” Section of the Railways Pension Scheme being deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section.

8. Schedule 3 to this Order shall have effect for the purpose of amending the 1994 Order.

Signed by authority of the Secretary of State for Transport

23rd February 1995

John Watts
Minister of State,
Department of Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

PAYMENTS OF CAPITAL AND INTEREST IN RESPECT OF ONE HALF OF THE SUM OF THE CAPITAL VALUES SPECIFIED IN ARTICLES 3 AND 5

PART I

1.—(1) In this Schedule—

“outstanding balance”, in relation to any Table A amount, means that Table A amount reduced by the amount of any payments made under paragraph 2 in respect of that amount, increased by any accrued interest required to be added to that amount by any such provision of this Schedule and reduced by the amount of any such interest which has been paid;

“relevant Table A amount” means any Table A amount other than the first amount specified in column 2 of Table A; and

“Table A amount” means any amount specified in column 2 of Table A.

(2) In the event that any index referred to in this Schedule is not published within 15 days of the date on which such index should have been published the relevant provision shall be taken to refer to such value as the actuaries shall determine to be appropriate in all the circumstances of the case.

(3) In this Schedule, unless the context otherwise requires, any reference—

(a) to a numbered paragraph is to the paragraph in this Schedule which bears that number;

(b) to a numbered sub-paragraph is to the sub-paragraph which bears that number in the paragraph in which the reference appears; and

(c) to a lettered Table is to the Table bearing that letter in this Schedule.

PART II

2. The Secretary of State shall, in respect of each Table A amount, make twelve equal payments amounting in aggregate to that amount, the first such payment to be made on 14th April of the year specified in column 1 of Table A in relation to that amount and subsequent payments to be made on the fourteenth day of each following month.

3.—(1) Interest shall accrue from 13th April 1995 to 13th April 1996 on the outstanding balance for the time being of the first amount specified in column 2 of Table A (“the first amount”) at the rate of 4.25 per cent per annum.

(2) Interest which accrues under sub-paragraph (1) shall not be added to the outstanding balance of the first amount but shall be paid by the Secretary of State in accordance with the following provisions of this paragraph.

(3) Where paragraph 2 requires the Secretary of State to make a payment in respect of the first amount the Secretary of State shall also, on the same date, make a payment in respect of the interest which has accrued or is accruing in respect of that amount under sub-paragraph (1), and the amount of any payment under this paragraph shall be determined in accordance with the following provisions of this paragraph.

(4) Any payment to be made under this paragraph shall be such amount as is determined by the Secretary of State after consultation with the actuaries and notified to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) The Secretary of State shall make a determination on or before 13th April 1995 of the payments to be made under this paragraph, and shall, so far as reasonably practicable, determine the amounts so that each of the payments to be made is equal.

(6) Where, in respect of the first amount, the final payment under paragraph 2 has been made but the sum of the payments made under this paragraph and the interest which has accrued under sub-paragraph (1) are not equal then—

- (a) if the sum of the said payments is less than the said interest the Secretary of State shall, as soon as is reasonably practicable, pay an amount equal to the shortfall; and
- (b) if the sum of the said payments exceeds the said interest the excess shall be deducted from any other amount payable to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

4.—(1) Interest shall accrue from 13th April 1995 to 13th October 1995 on the outstanding balance for the time being of each relevant Table A amount, on 13th October 1995, at the rate of 4.25 per cent per annum, and shall be added to the outstanding balance of the relevant Table A amount in respect of which it has accrued on 14th October 1995.

(2) Subject to sub-paragraph (3), interest shall accrue from 13th October 1995 to 13th October 1996 and during subsequent relevant periods, on 13th October of each year, on the outstanding balance for the time being of each relevant Table A amount at the rate of—

$$\left(1.0425 \times \left(\frac{Z}{W}\right) - 1\right) \times 100$$

per cent per annum where—

“W” means the retail prices index for the month of September in the year before the year in which the relevant period begins, and

“Z” means the retail prices index for the month of September in the year in which the relevant period begins.

(3) Where paragraph 2 requires the Secretary of State to commence payment of a relevant Table A amount during a relevant period (“the first relevant period”) interest shall accrue during that and the following relevant period on the outstanding balance for the time being of that relevant Table A amount at the rate of—

$$\left(1.0425 \times \left(\frac{Z}{W}\right)^{\frac{1}{2}} - 1\right) \times 100$$

per cent per annum where—

“W” means the retail prices index for the month of September in the year before the year in which the first relevant period begins, and

“Z” means the retail prices index for the month of September in the year in which the first relevant period begins.

(a) (4) (a) Where interest accrues under sub-paragraph (2) it shall be added to the outstanding balance of the relevant Table A amount in respect of which it has accrued on the day after it has accrued.

(b) Where interest accrues under sub-paragraph (3) it shall not be added to the outstanding balance of the relevant Table A amount in respect of which it accrues but shall be paid in accordance with paragraph 5.

(5) In this paragraph—

“relevant period” means a period of twelve months, the first such period being the period from 13th October 1995 to 13th October 1996 and subsequent relevant periods being periods of 12 months starting from the end of the previous relevant period; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

$\frac{Z}{W}$,

shall be calculated to three decimal places and, if

$\frac{Z}{W}$

is less than one, it shall be treated as one.

5.—(1) Where paragraph 2 requires the Secretary of State to make any payment in respect of a relevant Table A amount the Secretary of State shall also, on the same date, make a payment in respect of any interest which has accrued or is accruing in respect of that relevant Table A amount under paragraph 4, and the amount of any payment under this paragraph shall be determined in accordance with the following provisions of this paragraph.

(2) Any payment to be made under this paragraph shall be such amount as is determined by the Secretary of State after consultation with the actuaries and notified to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

(3) The Secretary of State shall make a determination on or before 14th March in each year of the payments to be made under this paragraph from 13th April in that year to 13th April in the following year, and shall, so far as reasonably practicable, determine the amounts so that each of the payments to be made is equal.

(4) Where, in respect of any relevant Table A amount, the final payment under paragraph 2 has been made but the sum of the payments made under this paragraph and the interest which has accrued under paragraph 4 are not equal then—

- (a) if the sum of the said payments is less than the said interest the Secretary of State shall, as soon as is reasonably practicable, pay an amount equal to the shortfall; and
- (b) if the sum of the said payments exceeds the said interest the excess shall be deducted from any other amount payable to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

TABLE A

<i>Column 1</i> YEAR	<i>Column 2</i> AMOUNT
	£ million
1995	0.157
1996	0.125
1997	0.116
1998	0.108
1999	0.101
2000	0.100
2001	0.089
2002	0.083
2003	0.074
2004	0.069
2005	0.063

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i> YEAR	<i>Column 2</i> AMOUNT
2006	0.059
2007	0.058
2008	0.057
2009	0.048
2010	0.047
2011	0.048
2012	0.038
2013	0.041
2014	0.036
2015	0.031
2016	0.029
2017	0.022
2018	0.021
2019	0.021
2020	0.016
2021	0.014
2022	0.013
2023	0.013
2024	0.012
2025	0.012
2026	0.011
2027	0.011
2028	0.010
2029	0.010
2030	0.009

SCHEDULE 2

PAYMENTS OF CAPITAL AND INTEREST IN RESPECT OF THE REMAINING ONE HALF OF THE SUM OF THE CAPITAL VALUES SPECIFIED IN ARTICLES 3 AND 5

1.—(1) In this Schedule, unless the context otherwise requires—

“outstanding balance”, in relation to any Table B amount, means that Table B amount reduced by the amount of any payments made under paragraph 2 or 3 in respect of that amount, increased by any accrued interest required to be added to that amount by any provision of this Schedule and reduced by the amount of any such interest which has been paid;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“payment date”, in relation to any Table B amount, means the date from which the Secretary of State shall be under a duty to make payments in relation to that amount under paragraph 2 or 3;

“section” means the 1994 Pensioners “B” Section of the Railways Pension Scheme or, where that section is deemed to have been wound up by virtue of Rule 19 of that section, the 1994 Pensioners “A” Section of that scheme;

“Special Reserve Fund” means the fund referred to as the Special Reserve Fund in Rule 13A;

“Table B amount” means, subject to paragraphs 3, 4, 8 and 11, any amount specified in column 2 of Table B; and

any reference to a numbered Rule is to a Rule of the section which bears that number.

(2) In the event that any index referred to in this Schedule is not published within 15 days of the date on which such index should have been published the relevant provision shall be taken to refer to such value as the actuaries shall determine to be appropriate in all the circumstances of the case.

(3) In this Schedule, unless the context otherwise requires, any reference—

- (a) to a numbered paragraph is to the paragraph in this Schedule which bears that number;
- (b) to a numbered sub-paragraph is to the sub-paragraph which bears that number in the paragraph in which the reference appears;
- (c) to a lettered Table is to the Table bearing that letter in this Schedule.

2.—(1) Subject to the provisions of paragraphs 4 and 11, if, on any relevant date in relation to any year after 2004 (“the relevant year”), the circumstances specified in sub-paragraph (2) have arisen in relation to the amount specified in column 2 of Table B in relation to the relevant year (“the specified amount”), from 13th April in the relevant year the Secretary of State shall be under a duty to make 120 payments amounting in aggregate to that amount, the first such payment to be made on 14th April in the relevant year and subsequent payments to be made on the fourteenth day of each following month.

(2) The circumstances referred to in sub-paragraph (1) are that the total of the relevant amounts in relation to the specified amount is more than $A + B$, where—

“A” means the amount determined by the actuaries in the relevant actuarial valuation in relation to the relevant year as being the amount retained in the Special Reserve Fund as at the valuation date in relation to that valuation, and, where in consequence of that valuation the amount retained in that Fund has been increased or reduced pursuant to Rule 13B (Application of Surplus) or 14B (Dealing with Shortfall) within six months after the date of signature of that valuation, that amount so increased or reduced as the case may be; and

“B” means 3% of the amount determined by the actuaries in the relevant actuarial valuation in relation to the relevant year as being the total of the value of all the liabilities of the section in respect of pension rights as at the valuation date in relation to that valuation, and, where any change in pension rights has been made pursuant to Rule 13B or 14B in consequence of that valuation, increased or reduced as the case may be by an amount determined by the actuaries, before the date six months after the date of signature of the relevant actuarial valuation, as the change in the value of the liabilities of the section taking account of such change in pension rights.

(3) In this paragraph—

“relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed before 14th January of that year;

“relevant amounts”, in relation to any specified amount, means—

- (a) the specified amount and any interest added to the outstanding balance of that amount under paragraph 5(1) of (3) or 7(1); and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under this paragraph or paragraph 3 (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraphs 5(1) or (3) or 7(1); and
- (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—
 - (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1994 Order in relation to the relevant year (insofar as it remains unpaid) (“the relevant amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that Order; and
 - (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule,

excluding any part of any such amount or interest which has been paid; and

“relevant date” means any date before 14th April in the relevant year but after 14th April in the previous year, being a date not less than three months after the date of signature of the relevant actuarial valuation in relation to the relevant year.

(4) The amount of each payment required to be made under this paragraph shall be determined in accordance with paragraph 9.

3.—(1) Subject to the provisions of paragraphs 4 and 11, if, on any relevant date in relation to any year after 2004 in which 13th April is not less than three months and not more than fifteen months after the date of signature of the relevant actuarial valuation in relation to that year (“the relevant year”), the circumstances specified in sub-paragraph (2) have arisen, then, from 13th April in the relevant year the Secretary of State shall be under a duty to make payments in respect of such amounts as he may notify to the persons administering the Paragraph 2 Section and the Paragraph 5 Section on or before 13th April in the relevant year as being such of the amounts specified in sub-paragraph (3) (taken in the order specified in sub-paragraph (4)) as would, if they, together with any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) which has not been paid, had not been relevant amounts for the purposes of sub-paragraph (2), have resulted in the circumstances specified in sub-paragraph (2) not arising.

(2) The circumstances referred to in paragraph (1) are that the total of the relevant amounts exceeds $A + C$ where—

“A” means the amount determined by the actuaries in the relevant actuarial valuation in relation to the relevant year as being the amount retained in the Special Reserve Fund as at the valuation date in relation to that valuation, and, where in consequence of that valuation the amount retained in that Fund is or is to be increased or reduced pursuant to Rule 13B or 14B before 1st April in the year three years after the relevant year, that amount so increased or reduced as the case may be; and

“C” means 10% of the amount determined by the actuaries in the relevant actuarial valuation in relation to the relevant year as being the total of the value of all the liabilities of the section in respect of pension rights as at the valuation date in relation to that valuation, and, where any change in pension rights has been made pursuant to Rule 13B or 14B in consequence of that valuation, increased or reduced as the case may be by an amount determined by the actuaries, before the date six months after the date of signature of the relevant actuarial valuation, as the

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

change in the value of the liabilities of the section taking account of such change in pension rights.

(3) The amounts referred to in sub-paragraph (1) are—

- (a) the amounts specified in column 2 of Table B in relation to the relevant year and the next two following years; and
- (b) each of the outstanding amounts in relation to the relevant year.

(4) Amounts specified in sub-paragraph (3)(a) are to be taken before amounts specified in sub-paragraph (3)(b); the amounts specified in sub-paragraph (3)(a) are to be taken in the order in which those amounts are specified in Table B; and the amounts specified in sub-paragraph (3)(b) are to be taken in the order in which those amounts are specified in Table B.

(5) Where this paragraph requires the Secretary of State to make payments in respect of any amount specified in sub-paragraph (3)(a), those payments shall be made by making 120 payments, the first to be made on 14th April of the year specified in column 1 of Table B against that amount and subsequent payments to be made on the fourteenth day of each following month; and the amount of each such payment shall be determined in accordance with paragraph 9.

(6) Where this paragraph requires the Secretary of State to make payments in respect of any amount specified in sub-paragraph (3)(b), that amount shall be divided into 3 equal parts and the Secretary of State shall make 120 payments in respect of each such part, the first payment to be made, in respect of one part, on 14th April of the relevant year and, in respect of each other part, on 14th April of the two next following years, respectively, and subsequent payments in respect of each part to be made on the fourteenth day of each following month; and the amount of each such payment shall be determined in accordance with paragraph 9.

(7) In this paragraph—

“outstanding amount” in relation to any year, means any amount specified in column 2 of Table B below the amount specified in Table B in relation to that year, except

- (i) any amount specified in sub-paragraph (3)(a),
- (ii) any amount in relation to which there is a subsisting duty to make payments under paragraph 2 or this paragraph,

(or, where more than nine such amounts are so specified, the nine such amounts immediately following the amount specified in column 2 of Table B in relation to that year), excluding any part of any such amount which has been paid;

“relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed before 14th January of that year;

“relevant amounts” means—

- (a) the amount specified in column 2 of Table B in relation to the relevant year (“the specified amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1); and
- (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under paragraph 2 or this paragraph (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraphs 5(1) or (3) or 7(1); and
- (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—
 - (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1994 Order in relation to the relevant year (insofar as it remains unpaid) (“the relevant

amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that Order; and

- (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule,

excluding any part of any such amount or interest which has been paid; and

“relevant date” means any date before 14th April in the relevant year but after 14th April in the previous year, being a date not less than three months after the date of signature of the relevant actuarial valuation in relation to the relevant year.

4.—(1) Subject to the following provisions of this paragraph, if from 13th April in any year (“the specified year”) the Secretary of State does not come under a duty by virtue of paragraph 2 to make payments in respect of the amount specified in column 2 of Table B in relation to the specified year (“the specified amount”) and there is on 14th April of the specified year no subsisting duty on the Secretary of State to make payments in respect of that amount under paragraph 3, then thereafter the provisions of this Schedule shall apply to the specified amount and any interest added to that amount by any provision of this Schedule which has not been paid as if the specified amount had been deleted from column 2 of Table B in relation to the specified year and added to the amount (“the later amount”) (if any) specified in column 2 of Table B in relation to the year “the later year”) 10 years later than the specified year and as if the total, or the specified amount, as the case may be (“the substituted amount”), had been inserted in column 2 of Table B in relation to the later year, and, unless the contrary intention appears, any reference in this Schedule (including this paragraph) (however expressed) to a Table B amount, to an amount specified in column 2 of Table B in relation to any particular year, or to the outstanding balance of a Table B amount, shall be construed accordingly.

(2) If—

- (a) on any relevant date (for the purposes of paragraph 2) the circumstances specified in paragraph 2(2) arise in relation to a composite amount, or
- (b) a composite amount is included in those amounts in respect of which the Secretary of State comes under a duty to make payments under paragraph 3,

then paragraph 2 or 3, as the case may be, shall impose on the Secretary of State a duty to make payments in respect of such of the Table B amounts as are comprised in that composite amount as he may notify to the persons administering the Paragraph 2 Section and the Paragraph 5 Section, before the 14th April in the relevant year for the purposes of that paragraph, as being such of those amounts as would, if they, together with any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) which has not been paid, had not been comprised in a relevant amount, have resulted in the circumstances specified in paragraph 2(2) or 3(2) not arising.

(3) Where the application of sub-paragraph (2) has resulted in the duty to make payments arising in respect of one or more, but not all, Table B amounts comprised in a composite amount, any reference in sub-paragraph (1) (however expressed) to a Table B amount shall include any Table B amount which is comprised in a composite amount.

(4) Where, by virtue of sub-paragraph (2), a duty to make payments has arisen in relation to a Table B amount which is comprised in a composite amount, then thereafter, in paragraphs 2 and 3 (including paragraph 3 as it applies for the purposes of paragraph 11)—

- (a) in sub-paragraph (b) of each of the definitions of “relevant amount” the reference to any amount specified in column 2 of Table B in relation to which there is no subsisting duty

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- to make payments shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under paragraph 2 or 3;
- (b) in sub-paragraph (c)(ii) of each of the definitions of “relevant amount” the reference to any amount specified in column 2 of Table B of Schedule 2 to the 1994 Order in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under either of those paragraphs;
 - (c) in sub-paragraphs (a) and (b) of each of the definitions of “relevant amount” there shall be excluded from the amounts referred to in those sub-paragraphs any Table B amount comprised in a composite amount and in relation to which there is a subsisting duty to make payment; and
 - (d) in sub-paragraph (c) of each of the definitions of “relevant amount” there shall be excluded from the amounts referred to in that sub-paragraph any amount specified in column 2 of Table B of Schedule 2 to the 1994 Order comprised in a composite amount and in relation to which there is a subsisting duty to make payment under that Schedule.
- (5) In this paragraph—
- (a) except in sub-paragraph (4)(b) and (d), “composite amount” means a substituted amount which comprises more than one Table B amount, and
 - (b) in sub-paragraph (4)(b) and (d) “composite amount” means a composite amount within the meaning of paragraph 4(5)(a) of Schedule 2 to the 1994 Order.

5.—(1) Interest shall accrue from 13th April 1995 to 13th October 1995 on the outstanding balance for the time being of each Table B amount, on 13th October 1995, at the rate of 4.25 per cent per annum, and shall be added to the outstanding balance of the Table B amount in respect of which it has accrued on 14th October 1995.

(2) Subject to the provisions of paragraph 8, during each relevant period from 13th October 1995 to 13th October in the year 10 years earlier than the year specified in column 1 of Table B in relation to any Table B amount except the first amount specified in column 2 of that Table (“the relevant Table B amount”) interest shall accrue on 13th October in each year on the outstanding balance for the time being of the relevant Table B amount at the rate determined in accordance with sub-paragraph (4) in relation to the relevant period.

(3) Interest which has accrued under sub-paragraph (2) shall be added to the outstanding balance of the relevant Table B amount on the day after it has accrued.

(4) The rate in relation to any period shall be—

$$\left(1.0425 \times \left(\frac{Z}{W}\right) - 1\right) \times 100$$

per cent per annum where—

“W” means the retail prices index for the month of September in the year before the year in which the relevant period begins, and

“Z” means the retail prices index for the month of September in the year in which the relevant period begins;

and for the purposes of this paragraph

$$\frac{Z}{W}$$

shall be calculated to three decimal places and, if it is less than one, it shall be treated as one.

(5) In this paragraph “relevant period” means the period of 12 months during which interest accrues under sub-paragraph (2) beginning on 14th October in any year.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

6.—(1) Subject to the provisions of paragraph 8, during each relevant period from the relevant date in relation to any Table B amount (“the relevant Table B amount”) interest shall accrue, on 13th October in each year, on the outstanding balance for the time being of the relevant Table B amount at the rate determined in accordance with sub-paragraph (2) in relation to the relevant Table B amount and in relation to the relevant period.

(2) The rate shall be—

$$\left(\left(1 + \frac{P}{100} \right) \times 1.005 \times \left(\frac{Z}{W} \right) - 1 \right) \times 100$$

per cent per annum.

(3) In this paragraph—

“P” equals

$$\left(\left(1 + \frac{Q}{2400} \right)^2 - 1 \right) \times 100;$$

“Q”, in relation to any Table B amount, equals the total of the real gross redemption yields on the FT actuaries index-linked gilt edged investment index for stocks over 5-years maturity (5% inflation) as at the close of business on the 14th day of each month (or, where that day is not a business day, the next following business day) in the period of 12 months starting 18 months before the relevant date in relation to that Table B amount;

“W” means the retail prices index for the month of September in the year before the year in which the relevant period begins;

“Z” means the retail prices index for the month of September in the year in which the relevant period begins; and

$$\frac{Z}{W}$$

, shall be calculated to three decimal places and, if

$$\frac{Z}{W}$$

is less than one, it shall be treated as W one.

“relevant date”, in relation to the relevant Table B amount, means 13th October in the year 10 years earlier than the year specified in column 1 of Table B in relation to that amount;

“relevant period” means the period of 12 months during which interest accrues under sub-paragraph (1), beginning on 14th October in any year.

7.—(1) A proportion of the interest (“the total of the interest”) which has accrued under paragraph 6 on 13th October in any year (“the relevant year”) on the outstanding balance of any Table B amount (“the relevant Table B amount”), being such proportion as is determined in accordance with sub-paragraph (2), shall, on the day after it has accrued, be added to the outstanding balance of the amount specified in column 2 of Table B in relation to the year 10 years later than the relevant year, and the remaining interest shall be paid by the Secretary of State on 14th October in the relevant year.

(2) The proportion of the interest which is required by sub-paragraph (1) to be added to the outstanding balance of any Table B amount is that proportion of the total of the interest which X bears to Y, subject to a maximum of 100 per cent, where

“X” means the amount determined by the actuaries in the relevant actuarial valuation in relation to the relevant year as being the amount retained in the Special Reserve Fund as at the valuation date in relation to that valuation, and, where in consequence of that valuation the amount retained in that Fund is or is to be increased or reduced pursuant to Rule 13B or 14B before 1st April in the year in which 13th April is not less than thirty nine months and not more than

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

fifty one months after the date of signature of the relevant actuarial valuation in relation to the relevant year, that amount so increased or reduced as the case may be; and

“Y” means, subject to sub-paragraph (3), the sum of—

- (a) the amount specified in column 2 of Table B in relation to the year in which the valuation date of the relevant actuarial valuation in relation to the relevant year occurs (“the specified amount”) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
- (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
- (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—
 - (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1994 Order in relation to the year in which the valuation date of the relevant actuarial valuation in relation to the relevant year occurs (insofar as it remains unpaid) (“the relevant amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that Order; and
 - (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule,

excluding any part of any such amount or interest which has been paid.

(3) For the purposes of calculating Y—

- (a) in sub-paragraph (b) of the definition of Y the reference to any amount specified in column 2 of Table B in relation to which there is no subsisting duty to make payments shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under paragraph 2 or 3;
- (b) in sub-paragraph (c)(ii) of the definition of Y the reference to any amount specified in column 2 of Table B of Schedule 2 to the 1994 Order in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under either of those paragraphs;
- (c) in sub-paragraphs (a) and (b) of the definition of Y there shall be excluded from the amounts referred to in those sub-paragraphs any Table B amount comprised in a composite amount and in relation to which there is a subsisting duty to make payment;
- (d) in sub-paragraph (c) of the definition of Y there shall be excluded from the amounts referred to in that sub-paragraph any amount specified in column 2 of Table B of Schedule 2 to the 1994 Order comprised in a composite amount and in relation to which there is a subsisting duty to make payment under that Schedule;
- (e) Table B shall be treated as if—
 - (i) in column 1, before the year first specified, the years 1995 to 2004 where each specified, and
 - (ii) in column 2, in relation to each of those years, the amount specified was zero; and

- (f) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section, Table B of Schedule 2 to the 1994 Order shall be treated as if—
- (i) in column 1, before the year first specified, the years 1995 to 2003 were each specified, and
 - (ii) in column 2, in relation to each of those years, the amount specified was zero.
- (4) In this paragraph—
- (a) except in sub-paragraph (3)(b) and (d), “composite amount” has the meaning given in paragraph 4(5)(a);
 - (b) in sub-paragraph (3)(b) and (d), “composite amount” has the meaning given in paragraph 4(5)(b); and
 - (c) “relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed before 14 January of that year.
- (5) Where, at the time when sub-paragraph (1) requires a proportion of interest to be added to the outstanding balance of an amount specified in a particular place in column 2 of Table B, no amount is so specified, there shall be deemed for the purposes of this paragraph to be such a Table B amount whose value is zero.

8.—(1) During each relevant period from 13 October immediately following the payment date in relation to a Table B amount (“the relevant Table B amount”), interest shall accrue on 13th October in each year on the outstanding balance for the time being of the relevant Table B amount at the rate determined in accordance with sub-paragraph (7) in relation to the relevant Table B amount and in relation to the relevant period.

(2) Interest which has accrued under sub-paragraph (1) shall be paid by monthly payments to be made on the same dates as the dates on which payments of the relevant Table B amount are to be made and so that all such interest is paid on or before the date on which the last payment in respect of the relevant Table B amount is to be paid; and the amount of each payment made under this sub-paragraph shall be determined in accordance with paragraph 9.

(3) Any interest which has accrued under sub-paragraph (1) on the outstanding balance of any Table B amount and is not required by sub-paragraph (2) to be paid on the day after it has accrued shall be added to the outstanding balance of that Table B amount on that day.

(4) Where the duty to make payments in relation to a Table B amount has arisen under paragraph 2 or 3 the Secretary of State shall pay any interest which has accrued on the outstanding balance of that Table B amount before the payment date in relation to that amount and which has not been paid, by monthly payments to be made on the same dates as the dates on which payments of that Table B amount are to be made and so that all such interest is paid on or before the date on which the last payment in respect of that Table B amount is to be paid; and the amount of each payment made under this sub-paragraph shall be determined in accordance with paragraph 9.

(5) When the duty to make payments has arisen under paragraph 3 in relation to an amount specified in paragraph 3(3)(b) the interest which has accrued under paragraphs 5 and 6 on the outstanding balance of that Table B amount before the payment date in relation to that amount and has not been paid shall be divided into 3 equal parts.

(6) In the application of sub-paragraphs (1) to (4) and paragraphs 9 and 10 in relation to an amount specified in paragraph 3(3)(b) any reference in those provisions or the definition of “relevant date” in sub-paragraph (8) or “payment date” to a Table B amount (however expressed) shall be taken to be a reference to a one-third part of such amount, calculated under paragraph 3(6), and any reference to the outstanding balance of a Table B amount (however expressed) shall be taken to be a reference to the sum of—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) such one third part of the Table B amount, and
- (b) a one third part of the interest which has accrued on the outstanding balance of that amount calculated under sub-paragraph (5),

reduced by the amount of any payments made in relation to such one third part of the Table B amount under paragraph 3, increased by any additions of interest under sub-paragraph (3) and reduced by any amounts of such interest which have been paid.

(7) The rate for the purpose of sub-paragraph (1) in relation to any amount and in relation to any period shall be—

$$\left(Y + \frac{A}{CO_{t-1}} \times \left(\frac{R_t}{R_1} - 1 \right) \right) \times 100$$

per cent per annum unless, in relation to any period, CO equals zero, in which case the rate for that period shall be determined by the Secretary of State after consultation with the actuaries.

(8) In this paragraph—

“relevant date”, in relation to a Table B amount, means 13th October immediately after the payment date;

“relevant period” means the period of twelve months during which interest accrues under sub-paragraph (1), the first such period starting with the 13th October immediately after the payment date, subsequent relevant periods starting with the end of the previous relevant period;

“A” equals

$$\frac{Y}{(1 + Y) \times (1 - v^{10})};$$

“CO” and “CO_{t-1}” shall be determined in accordance with sub-paragraph (9);

“P” equals

$$\left(\left(1 + \frac{Q}{2,400} \right)^3 - 1 \right) \times 100;$$

“Q”, in relation to any Table B amount, equals the total of the real gross redemption yields on the FT actuaries index-linked gilt edged investment index for stocks over 5-years maturity (5% inflation) as at the close of business on the 14th day of each month (or, where that day is not a business day, the next following business day) in the period of 12 months starting 18 months before the relevant date in relation to that Table B amount;

“R₁” means the retail prices index for the month of September in the year before the year in which the duty to make payments in respect of the relevant amount arises;

“R_t” means the retail prices index for the month of September immediately before the date on which the relevant period begins;

“v” equals

$$\frac{1}{(1 + Y)}$$

;

“Y” equals

$$\left(\left(1 + \frac{P}{100} \right) \times 1.005 \right)^{-1}$$

;

$$C_t = A - (Y \times CO_{t-1})$$

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

shall be determined in accordance with sub-paragraph (10).

(9) In this paragraph, CO_{t-1} is CO for the period of 12 months ending immediately before the relevant period; and CO for the period of 12 months ending immediately before the first relevant period is $1 - A$, and CO for any subsequent period of 12 months is CO for the period of 12 months ending immediately before that period minus C_t ; and for this purpose—

$$\frac{R_t}{R_1}$$

$$\frac{R_t}{R_1}$$

shall be calculated to three decimal places; if it is less than the value of

$$\frac{R_t}{R_1}$$

in relation to the immediately preceding relevant period it shall be treated as equal to that value; and if it is less than one it shall be treated as one unless the value of

$$\frac{R_t}{R_1}$$

in relation to the immediately preceding relevant period is greater than one, in which case it shall be treated as equal to that value.

9.—(1) The amount of any payment required to be paid under paragraph 2 or 3 in relation to any Table B amount or by paragraph 8 in respect of interest on the outstanding balance of any Table B amount shall be such amount as is determined by the Secretary of State after consultation with the actuaries and notified to the persons administering the Paragraph 2 Section and the Paragraph 5 Section.

(2) The Secretary of State shall make a determination on or before 14th March in every year in relation to the payments to be made from 13th April in that year to 13th April in the following year and shall, so far as reasonably practicable, determine the amounts referred to in sub-paragraph (1) so that the payments made each month in that period of twelve months are equal and so that, subject to the provisions of this Schedule, payments made in any such period of twelve months shall, so far as reasonably practicable, be equal to payments made in the immediately preceding period (disregarding any changes to the retail prices index).

10. Subject to the provisions of paragraph 11 where, in respect of any Table B amount, the final payment under paragraph 2 or 3, as the case may be, has been made then—

- (a) if the sum of the amounts paid under paragraph 2 or 3, as the case may be, in relation to that Table B amount and the amounts paid under paragraph 8 in respect of interest on the outstanding balance of that Table B amount (“the first sum”) falls short of the sum of that Table B amount and the total of the amounts which should have been paid under paragraph 8 in respect of interest on the outstanding balance of that Table B amount (“the second sum”), the Secretary of State shall pay to the persons administering the Paragraph 2 Section and the Paragraph 5 Section the amount by which the first sum falls short of the second sum; and
- (b) if the first sum exceeds the second sum, the persons administering the Paragraph 2 Section and the Paragraph 5 Section shall pay to the Secretary of State the amount by which the first sum exceeds the second sum.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

11.—(1) If, on any relevant date in relation to any year after 2004 in which 13th April is not less than three months and not more than fifteen months after the date of signature of the relevant actuarial valuation in relation to that year (“the relevant year”)—

- (a) the duty to make payments under paragraph 2 or 3 has arisen in respect of any Table B amount (“the relevant Table B amount”) and
- (b) the circumstances specified in sub-paragraph (3) arise,

the Secretary of State may, on or before 13th April in the relevant year, issue a notice to the persons administering the Paragraph 2 Section and the Paragraph 5 Section and from 13th April in the relevant year the duty to make payments under paragraph 2 or 3, as the case may be, in respect of that amount shall terminate, but no notice shall be issued which would result in the total of the relevant amounts exceeding $A + B$ (as defined in sub-paragraph (3)).

(2) From 13th October in the relevant year the provisions of this Schedule shall apply to such part of the relevant Table B amount as remains unpaid and any interest added to that amount by any provision of this Schedule which has not been paid as if such part of the relevant Table B amount as remains unpaid had been added to the amount (if any) specified in Table B in relation to the year (“the later year”) 9 years later than the relevant year, and as if the total, or that amount, as the case may be, had been inserted in column 2 of Table B in relation to the later year, and, unless the contrary intention appears, any reference in this Schedule (including this paragraph) (however expressed) to a Table B amount, to an amount specified in column 2 of Table B in relation to any particular year, or to the outstanding balance of a Table B amount, shall be construed accordingly.

(3) The circumstances referred to in sub-paragraph (1) are that the total of the relevant amounts does not exceed $A + B$ where—

“A” means the amount determined by the actuaries in the relevant actuarial valuation as being the amount retained in the Special Reserve Fund as at the valuation date in relation to that valuation and, where in consequence of that valuation that amount retained in that Fund has been increased or reduced pursuant to Rule 13B or 14B within six months after the date of signature of that valuation, so increased or reduced as the case may be; and

“B” means 3% of the amount determined by the actuaries in the relevant actuarial valuation as being the total of the value of all the liabilities of the section in respect of pension rights as at the valuation date in relation to that valuation, and, where any change in pension rights has been made pursuant to Rule 13B or 14B in consequence of that valuation, increased or reduced as the case may be by an amount determined by the actuaries, before the date six months after the date of signature of the relevant actuarial valuation, as the change in the value of the liabilities of the section taken account of such change in pension rights.

(4) Where the Secretary of State has issued a notice terminating the duty to make payments in respect of the relevant Table B amount, from 13th October in the relevant year interest shall cease to accrue on the outstanding balance of that Table B amount under paragraph 8(1), the duty under paragraph 8 to make payments in respect of interest which has accrued on the outstanding balance of that Table B amount shall cease, and paragraphs 6 and 7 shall apply in respect of the outstanding balance of that Table B amount and shall apply in respect of any interest which has accrued under paragraph 8 and has not been paid on or before 13th October in the relevant year.

(5) Where the duty to make payments in respect of any Table B amount under paragraph 2 or 3 has previously arisen and has terminated, if—

- (a) on any relevant date (for the purposes of paragraph 2) the circumstances specified in paragraph 2(2) arise in relation to that amount; or
- (b) that amount is included in the amounts in respect of which the Secretary of State comes under a duty to make payments under paragraph 3,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

then paragraph 2 or 3, as the case may be, shall apply in relation to that amount as if paragraph 2(1) or paragraph 3(5) or (6), as the case may be, required the Secretary of State to make payments amounting in aggregate to such part of the Table B amount as remains unpaid.

(6) In this paragraph—

“relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed, before 14th January of that year;

“relevant amounts” has the same meaning as in paragraph 3(7); and

“relevant date”, unless the context otherwise requires, means any date before 14th April in the relevant year but after 14th April in the previous year, being a date not less than three months after the date of signature of the relevant actuarial valuation in relation to the relevant year.

12. On 14th October 2094 the Secretary of State shall pay the outstanding balance on each Table B amount.

TABLE B

<i>Column 1</i> YEAR	<i>Column 2</i> AMOUNT
	£ million
2005	0.157
2006	0.125
2007	0.116
2008	0.108
2009	0.101
2010	0.100
2011	0.089
2012	0.083
2013	0.074
2014	0.069
2015	0.063
2016	0.059
2017	0.058
2018	0.057
2019	0.048
2020	0.047
2021	0.048
2022	0.038
2023	0.041
2024	0.036
2025	0.031

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i> YEAR	<i>Column 2</i> AMOUNT
2026	0.029
2027	0.022
2028	0.021
2029	0.021
2030	0.016
2031	0.014
2032	0.013
2033	0.013
2034	0.012
2035	0.012
2036	0.011
2037	0.011
2038	0.010
2039	0.010
2040	0.009
2041	0.000
2042	0.000
2043	0.000
2044	0.000
2045	0.000
2046	0.000
2047	0.000
2048	0.000
2049	0.000
2050	0.000
2051	—
2052	—
2053	—
2μ	—
2055	—
2056	—
2057	—
2058	—
2059	—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i> YEAR	<i>Column 2</i> AMOUNT
2060	—
2061	—
2062	—
2063	—
2064	—
2065	—
2066	—
2067	—
2068	—
2069	—
2070	—
2071	—
2072	—
2073	—
2074	—
2075	—
2076	—
2077	—
2078	—
2079	—
2080	—
2081	—
2082	—
2083	—
2084	—
2085	—
2086	—
2087	—
2088	—
2089	—
2090	—
2091	—
2092	—
2093	—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i>	<i>Column 2</i>
YEAR	AMOUNT
2094	—

SCHEDULE 3

AMENDMENTS OF THE RAILWAY PENSIONS (SUBSTITUTION) ORDER 1994

PART I

1. In this Schedule, unless the context otherwise requires, any reference—
 - (a) in Part II to a numbered paragraph is to the paragraph in Schedule 1 to the 1994 Order which bears that number; and
 - (b) in Part III to a numbered paragraph is to the paragraph in Schedule 2 to the 1994 Order which bears that number.

PART II

2. Schedule 1 to the 1994 Order shall be amended in accordance with paragraphs 3 to 5 of this Schedule.

3. In paragraph 4—

- (a) in sub-paragraph (2) at the end there shall be inserted the following—

“where—

“W” means the retail prices index for the month of September in the year before the year in which the relevant period begins, and

“Z” means the retail prices index for the month of September in the year in which the relevant period begins”;

- (b) for sub-paragraph (3) there shall be substituted the following—

“(3) Where paragraph 3 requires the Secretary of State to commence payment of a Table A amount during a relevant period (“the first relevant period”) interest shall accrue during that and the following relevant period on the outstanding balance for the time being of that relevant Table A amount at the rate of—

$$\left(1.0425 \times \left(\frac{Z}{W}\right) - 1\right) \times 100$$

per cent per annum where—

“W” means the retail prices index for the month of September in the year before the year in which the first relevant period begins, and

“Z” means the retail prices index for the month of September in the year in which the first relevant period begins”;

- (c) after sub-paragraph (3) there shall be inserted the following—

(a) “(3A) Where interest accrues under sub-paragraph (1) it shall be added to the outstanding balance of the Table A amount in respect of which it has accrued on the day after it has accrued.

- (b) Where interest accrues under sub-paragraph (3) it shall not be added to the outstanding balance of the Table A amount in respect of which it accrues but shall be paid in accordance with paragraph 6.”; and
 - (d) in sub-paragraph (4) the definitions of “W” and “Z” shall be deleted.
4. Paragraph 5 shall be deleted.
5. In paragraph 6—
- (a) in sub-paragraph (1) for the words “any interest which has accrued on and has been added to, or which is to accrue on,” there shall be substituted “any interest which has accrued or is accruing on”;
 - (b) for references to “the persons administering the section” (in both places where they occur) there shall be substituted “the persons administering the Paragraph 1 Section and the Paragraph 4 Section”.

PART III

6. Schedule 2 to the Order shall be amended in accordance with paragraphs 7 to 17 of this Schedule.
7. In paragraph 1(1)—
- (a) before the definition of “outstanding balance” there shall be inserted the following—
““the 1995 Order” means the Railway Pensions (Substitution and Miscellaneous Provisions) Order 1995;”;
 - (b) in the definition of “Table B amount” for the words “paragraphs 4 and 11” there shall be substituted “paragraphs 3, 4, 8 and 11”.
8. In paragraphs 2(3), for the definition of “relevant amounts”, there shall be substituted the following—
- ““relevant amounts”, in relation to any specified amount, means—
- (a) the specified amount and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1); and
 - (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under this paragraph or paragraph 3 (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
 - (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—
 - (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1995 Order in relation to the relevant year (insofar as it remains unpaid) (“the relevant amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that Order; and
 - (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

excluding any part of any such amount or interest which has been paid: and for the purposes of sub-paragraph (c) of this definition Table B of Schedule 2 to the 1995 Order shall be treated as if, in column 1, before the year first specified, the year 2004 was specified, and as if, in column 2, in relation to that year, the amount specified was zero.”

9. In paragraph 3—

(a) in sub-paragraph (1)—

- (i) after the words “in relation to any year after 2003” there shall be inserted “in which 13th April is not less than three months and not more than fifteen months after the date of signature of the relevant actuarial valuation in relation to that year”;
- (ii) after the words “(taken in the order specified in sub-paragraph (4)) as would, if they” there shall be inserted “, together with any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1), which has not been paid,”;
- (iii) for the words “the persons administering the section” there shall be substituted “the persons administering the Paragraph 1 Section and the Paragraph 4 Section”;

(b) in sub-paragraph (2), in the definition of “A”, for the words following “the amount retained in that Fund” to the end of the definition there shall be substituted “is or is to be increased or reduced pursuant to Rule 13B or 14B before 1st April in the year three years after the relevant year, that amount so increased or reduced as the case may be”;

(c) in sub-paragraph (7), for the definition of “relevant amounts”, there shall be substituted the following—

““relevant amounts” means—

- (a) the amount specified in column 2 of Table B in relation to the relevant year (“the specified amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1); and
- (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under paragraph 2 or this paragraph (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
- (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—
 - (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1995 Order in relation to the relevant year (insofar as it remains unpaid) (“the relevant amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that Order; and
 - (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule,

excluding any part of any such amount or interest which has been paid: and for the purposes of sub-paragraph (c) of this definition Table B of Schedule 2 to the 1995 Order shall be treated as if, in column 1, before the year first specified, the

year 2004 was specified, and as if, in column 2, in relation to that year, the amount specified was zero; and”.

10. In paragraph 4—

(a) in sub-paragraph (1)—

- (i) after the words “then thereafter the provisions of this Schedule shall apply” there shall be inserted “to the specified amount and any interest added to that amount by any provision of this Schedule which has not been paid”;
- (ii) after the words “or an amount specified in column 2 of Table B in relation to any particular year,” there shall be inserted “or the outstanding balance of a Table B amount,”;

(b) in sub-paragraph (2)—

- (i) for the words “the persons administering the section” there shall be substituted “the persons administering the Paragraph 1 Section and the Paragraph 4 Section”;
- (ii) after the words “as being such of those amounts as would, if they” there shall be inserted “, together with any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) which has not been paid,”;

(c) for sub-paragraphs (4) and (5) there shall be substituted the following—

“(4) Where, by virtue of sub-paragraph (2), a duty to make payments has arisen in relation to a Table B amount which is comprised in a composite amount, then thereafter, in paragraphs 2 and 3 (including paragraph 3 as it applies for the purposes of paragraph 11)—

- (a) in sub-paragraph (b) of each of the definitions of “relevant amount” the reference to any amount specified in column 2 of Table B in relation to which there is no subsisting duty to make payments shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under paragraph 2 or 3;
- (b) in sub-paragraph (c)(ii) of each of the definitions of “relevant amount” the reference to any amount specified in column 2 of Table B of Schedule 2 to the 1995 Order in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under either of those paragraphs;
- (c) in sub-paragraphs (a) and (b) of each of the definitions of “relevant amount” there shall be excluded from the amounts referred to in those sub-paragraphs any Table B amount comprised in a composite amount and in relation to which there is a subsisting duty to make payment; and
- (d) in sub-paragraph (c) of each of the definitions of “relevant amount” there shall be excluded from the amounts referred to in that sub-paragraph any amount specified in column 2 of Table B of Schedule 2 to the 1995 Order comprised in a composite amount and in relation to which there is a subsisting duty to make payment under that Schedule.

(5) In this paragraph—

- (a) except in sub-paragraph (4)(b) and (d), “composite amount” means a substituted amount which comprises more than one Table B amount, and
- (b) in sub-paragraph (4)(b) and (d) “composite amount” means a composite amount within the meaning of paragraph 4(5)(a) of Schedule 2 to the 1995 Order.”.

11. In paragraph 5 in sub-paragraph (3) at the end there shall be inserted “on the day after it has accrued”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

12. In paragraph 6—

- (a) in sub-paragraph (2) the words “(except the amount referred to in sub-paragraph (1))” shall be deleted;
- (b) in sub-paragraph (4) for the definition of “relevant date” there shall be substituted the following—

““relevant date”—

- (a) in relation to the amount first specified in column 2 of Table B, means 13th October 1995, and
- (b) in relation to any other relevant Table B amount, means 13th October in the year 10 years earlier than the year specified in column 1 of Table B in relation to that amount.”.

13. In paragraph 7—

- (a) in sub-paragraph (1) after the words “being such proportion and is determined in accordance with sub-paragraph (2), shall” there shall be inserted “, on the day after it has accrued,”;

(b) in sub-paragraph (2)—

- (i) in the definition of “X”, for the words following “the amount retained in that Fund” to the end of the definition there shall be substituted “is or is to be increased or reduced pursuant to Rule 13B or 14B before 1st April in the year in which 13th April is not less than thirty nine months and not more than fifty one months after the date of signature of the relevant actuarial valuation in relation to the relevant year, that amount so increased or reduced as the case may be”;

(ii) for the definition of “Y” there shall be substituted the following—

““Y” means, subject to sub-paragraph (2A), the sum of—

- (a) the amount specified in column 2 of Table B in relation to the year in which the valuation date of the relevant actuarial valuation in relation relevant year occurs (“the specified amount”) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
- (b) any amount specified in column 2 of Table B below the specified amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 (or, where more than nine such amounts are so specified, the nine such amounts immediately following the specified amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1); and
- (c) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section—

- (i) the amount (if any) specified in column 2 of Table B of Schedule 2 to the 1995 Order in relation to the year in which the valuation date of the relevant actuarial valuation in relation to the relevant year occurs (insofar as it remains unpaid) (“the relevant amount”) and any interest added to the outstanding balance of that amount under paragraph 5(1) or (3) or 7(1) of Schedule 2 to that order; and

- (ii) any amount specified in column 2 of Table B of that Schedule below the relevant amount in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Schedule (or, where more than nine such amounts are so specified, the nine such amounts immediately following the relevant amount) and any interest added to the outstanding balance of any such amount under paragraph 5(1) or (3) or 7(1) of that Schedule, excluding any part of any such amount or interest which has been paid.”;

(c) after sub-paragraph (2) there shall be inserted the following—

“(2A) For the purposes of calculating Y—

- (a) in sub-paragraph (b) of the definition of Y the reference to any amount specified in column 2 of Table B in relation to which there is no subsisting duty to make payments shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under paragraph 2 or 3;
- (b) in sub-paragraph (c)(ii) of the definition of Y the reference to any amount specified in column 2 of Table B of Schedule 2 to the 1995 Order in relation to which there is no subsisting duty to make payments under paragraph 2 or 3 of that Schedule shall be taken to include a reference to a composite amount in relation to any part of which there is no subsisting duty to make payments under either of those paragraphs;
- (c) in sub-paragraphs (a) and (b) of the definition of Y there shall be excluded from the amounts referred to in those sub-paragraphs any Table B amount comprised in a composite amount and in relation to which there is a subsisting duty to make payment;
- (d) in sub-paragraph (c) of the definition of Y there shall be excluded from the amounts referred to in that sub-paragraph any amount specified in column 2 of Table B of Schedule 2 to the 1995 Order comprised in a composite amount and in relation to which there is a subsisting duty to make payment under that Schedule;
- (e) Table B shall be treated as if—
 - (i) in column 1, before the year first specified, the years 1995 to 2003 were each specified, and
 - (ii) in column 2, in relation to each of those years, the amount specified was zero; and
- (f) where the 1994 Pensioners “B” Section of the Railways Pension Scheme is deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section, Table B of Schedule 2 to the 1995 Order shall be treated as if—
 - (i) in column 1, before the year first specified, the years 1995 to 2004 were each specified, and
 - (ii) in column 2, in relation to each of those years, the amount specified was zero.”;

(d) for sub-paragraph (3) there shall be substituted the following—

“(3) In this paragraph—

- (a) except in sub-paragraph (2A)(b) and (d), “composite amount” has the meaning given in paragraph 4(5)(a);
- (b) in sub-paragraph (2A)(b) and (d), “composite amount” has the meaning given in paragraph 4(5)(b); and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) “relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed before 14th January of that year.”.

14. In paragraph 8—

- (a) in sub-paragraph (5) for the words “accrued under paragraph 5” there shall be substituted “accrued under paragraphs 5 and 6”;
- (b) in sub-paragraph (6)—
 - (i) after the words “the definition of” there shall be inserted ““relevant date” in sub-paragraph (8) or”
 - (ii) in paragraph (b) the words “before the payment date” shall be deleted;
- (c) in sub-paragraph (7) at the end there shall be inserted “unless, in relation to any period, CO equals zero, in which case the rate for that period shall be determined by the Secretary of State after consultation with the actuaries”;
- (d) in sub-paragraph (8)—
 - (i) for the definition of “relevant date” there shall be substituted the following—
 - ““relevant date”, in relation to a Table B amount, means 13th October immediately after the payment date.”;
 - (ii) in the definition of “A” for the words “(Y × L)” there shall be substituted “Y”;
 - (iii) after the definition of “A” there shall be inserted the following—
 - ““CO” and “CO_{t-1}” shall be determined in accordance with sub-paragraph (9).”;
 - (iv) the definition of “L” shall be deleted; and
 - (v) the definition of “CO_{t-1}” shall be deleted;
- (e) in sub-paragraph (9) for the words “L – A” there shall be substituted “1 – A”.

15. In paragraph 9(1) for the words “the persons administering the section” there shall be substituted “the persons administering the Paragraph 1 Section and the Paragraph 4 Section”.

16. For paragraph 10 there shall be substituted the following—

“10. Subject to the provisions of paragraph 11 where, in respect of any Table B amount, the final payment under paragraph 2 or 3, as the case may be, has been made then—

- (a) if the sum of the amounts paid under paragraph 2 or 3, as the case may be, in relation to that Table B amount and the amounts paid under paragraph 8 in respect of interest on the outstanding balance of that Table B amount (“the first sum”) falls short of the sum of that Table B amount and the total of the amounts which should have been paid under paragraph 8 in respect of interest on the outstanding balance of that Table B amount (“the second sum”), the Secretary of State shall pay to the persons administering the Paragraph 1 Section and the Paragraph 4 Section the amount by which the first sum falls short of the second sum; and
- (b) if the first sum exceeds the second sum, the persons administering the Paragraph 1 Section and the Paragraph 4 Section shall pay to the Secretary of State the amount by which the first sum exceeds the second sum.”.

17. In paragraph 11—

- (a) for sub-paragraphs (1) and (2) there shall be substituted the following—
 - “(1) If, on any relevant date in relation to any year after 2003 in which 13th April is not less than three months and not more than fifteen months after the date of signature of the relevant actuarial valuation in relation to that year (“the relevant year”)—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(a) the duty to make payments under paragraph 2 or 3 has arisen in respect of any Table B amount (“the relevant Table B amount”), and

(b) the circumstances specified in sub-paragraph (3) arise,

the Secretary of State may, on or before 13 April in the relevant year, issue a notice to the persons administering the Paragraph 1 Section and the Paragraph 4 Section and from 13 April in the relevant year the duty to make payments under paragraph 2 or 3, as the case may be, in respect of that amount shall terminate, but no notice shall be issued which would result in the total of the relevant amounts exceeding $A + B$ (as defined in sub-paragraph (3)).

(2) From 13 October in the relevant year the provisions of this Schedule shall apply to such part of the relevant Table B amount as remains unpaid and any interest added to that amount by any provision of this Schedule which has not been paid as if such part of the relevant Table B amount as remains unpaid had been added to the amount (if any) specified in Table B in relation to the year (“the later year”) 9 years later than the relevant year, and as if the total, or that amount, as the case may be, had been inserted in column 2 of Table B in relation to the later year, and, unless the contrary intention appears, any reference in this Schedule (including this paragraph) (however expressed) to a Table B amount, to an amount specified in column 2 of Table B in relation to any particular year, or to the outstanding balance of a Table B amount, shall be construed accordingly.”;

(b) in sub-paragraph (4)—

(i) for the definitions of “relevant actuarial valuation” and “relevant amount” there shall be substituted the following—

““relevant actuarial valuation”, in relation to any year, means the latest actuarial valuation to have been signed before 14 January of that year;

“relevant amounts” has the same meaning as in paragraph 3(7); and”;

(ii) after the definition of “relevant amounts” there shall be inserted the following—

““relevant date”, unless the context otherwise requires, means any date before 14th April in the relevant year but after 14th April in the previous year, being a date not less than three months after the date of signature of the relevant actuarial valuation in relation to the relevant year.”;

(c) in sub-paragraph (5)—

(i) for the words “From the date of a notice to terminate the duty to make payments in respect of any Table B amount,” there shall be substituted “Where the Secretary of State has issued a notice terminating the duty to make payments in respect of the relevant Table B amount, from 13th October in the relevant year”;

(ii) for the words “on or before the date of the notice to terminate the duty” there shall be substituted “on or before 13th October in the relevant year”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order terminates the liability of the Secretary of State to make payments under section 52(1) of the Transport Act 1980 (“the 1980 Act”) in respect of two sections of the Railways Pension Scheme, and makes provision for payments to be made in substitution for that liability.

It specifies 13th April 1995 as the termination date in respect of each section. This means that, in respect of each, the liability of the Secretary of State to make payments under section 52(1) ceases after that date (articles 2 and 4).

The Order specifies the capital value of the unfunded obligations (as defined in section 52B of the 1980 Act) in respect of each of the sections as at the termination date (articles 3 and 5).

Article 6 and Schedules 1 and 2 require the Secretary of State to make payments in respect of the capital values of the unfunded obligations and provide for the accrual and payment of interest on the outstanding balances of those capital values. Schedule 1 makes such provision in respect of one half of the total of the capital value and Schedule 2 in respect of the remaining half.

The Order also provides for the liability of the Secretary of State to make payments under Schedules 1 and 2 to be discharged in the event of the winding up of both sections (article 7). But the Secretary of State’s liability will not be discharged by virtue only of the 1994 Pensioners “B” Section of the Railways Pension Scheme being deemed to have been wound up by virtue of the operation of Rule 19 of the Rules of that section.

Article 8 and Schedule 3 provide for the amendment of the Railway Pensions (Substitution) Order 1994 (S.I. 1994/2388).

This Order does not impose any costs on business.