



# Transport Act 1980

## 1980 CHAPTER 34

### PART III

#### RAILWAY ETC. PENSIONS

**[<sup>F1</sup>52B Power to substitute obligations under this section for liabilities under s.52(1).**

- (1) The Minister may make a substitution order in relation to any occupational pension scheme—
- (a) which is a new scheme, within the meaning of Schedule 11 to the Railways Act 1993;
  - (b) which is designated under paragraph 10(1) of that Schedule (designation of schemes which are to be treated as B.R. pension schemes for certain purposes of this Part); and
  - (c) in relation to which a guarantee has been given by the Secretary of State under paragraph 11 of that Schedule;

and any reference in this section to a “guaranteed pension scheme” is a reference to such an occupational pension scheme.

- (2) The Minister may also make a substitution order in relation to any section of a new scheme, within the meaning of Schedule 11 to the Railways Act 1993, if the section is one—
- (a) which is designated under paragraph 10(1) of that Schedule; and
  - (b) in relation to which a guarantee has been given by the Secretary of State under paragraph 11 of that Schedule;

and the following provisions of this section (and sections 52C and 52D) shall apply in relation to any such section of a new scheme as if any reference to a guaranteed pension scheme included a reference to such a section.

- (3) For the purposes of this section, a “substitution order” is an order under this section the effect of which is—

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 for the Transport Act 1980, Section 52B. (See end of Document for details)*

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- (a) to terminate, from the termination date, the Minister's liability to make to the persons administering the guaranteed pension scheme in question payments under section 52(1) in relation to the scheme; and
  - (b) to impose on the Minister, in substitution for that liability, an obligation to make to those persons, subject to and in accordance with the following provisions of this section, one or more other payments (the "substitution payments") in relation to that scheme.
- (4) Subject to the following provisions of this section, the amount of the substitution payments to be made in the case of a guaranteed pension scheme shall be equal in the aggregate to the sum of—
  - (a) the amount specified pursuant to subsection (5)(a) as the capital value of the unfunded obligations in the case of the scheme; and
  - (b) the aggregate amount of any interest which is dealt with as mentioned in subsection (8)(b)(ii) in the case of the scheme.
- (5) A substitution order must specify—
  - (a) the capital value of the unfunded obligations in the case of the guaranteed pension scheme in question, as at the termination date; and
  - (b) the date which, for the purposes of this section, is to be the termination date in relation to that scheme, being a date not earlier than one month after the coming into force of the substitution order.
- (6) Any determination for the purposes of this section of the capital value of the unfunded obligations in the case of a guaranteed pension scheme shall either—
  - (a) be made by the Minister; or
  - (b) if the Minister so requires in the particular case, be made by the actuary to the guaranteed pension scheme in question and approved by the Minister.
- (7) A substitution order may specify—
  - (a) the amount or amounts, or the method of determining the amount or amounts, of the substitution payments,
  - (b) the date or dates on which the substitution payments are to be made,
  - (c) circumstances (which may, if the Minister so desires, be defined by reference to the opinion of any person) in which substitution payments are to be made,
 and may provide for the obligation to make substitution payments to be discharged if the guaranteed pension scheme in question has, in the opinion of a person specified or described in, or nominated under, the order, been wound up.
- (8) A substitution order must provide—
  - (a) for interest to accrue from the termination date on the outstanding balance of the capital value for the time being at such rate, and at such intervals, as may be specified in, or determined under or in accordance with, the order; and
  - (b) for any such interest which accrues—
    - (i) to be paid to the persons administering the guaranteed pension scheme in question, or
    - (ii) to be added to the outstanding balance of the capital value,
 (or to be dealt with partly in one of those ways and partly in the other);
 and the provision that may be made by virtue of paragraph (a) includes provision for the rate of interest to be calculated by reference to any variable or to be such rate as

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the Minister may from time to time determine and specify in a notice to the persons administering the scheme in question.

(9) For the purposes of subsection (8), the “outstanding balance of the capital value”, in the case of a guaranteed pension scheme, means the capital value of the unfunded obligations in the case of the scheme, as specified pursuant to subsection (5)(a),—

- (a) reduced by the amount of any substitution payments made in relation to that scheme; and
- (b) increased by any additions of accrued interest under or by virtue of subsection (8)(b)(ii) in relation to that scheme.

(10) Nothing in this section affects the liability of the [<sup>F2</sup>Authority] in respect of any relevant pension obligations.

(11) Any sums required for the making of payments under this section by the Minister shall be paid out of money provided by Parliament.

(12) In this section—

“the capital value of the unfunded obligations”, in the case of any guaranteed pension scheme, means such amount as is, in the opinion of the person determining that capital value pursuant to subsection (6), the capital equivalent of the payments that would, apart from this section, have been expected to be made by the Minister under section 52(1) in relation to that scheme after the termination date in the case of that scheme;

“ occupational pension scheme ” means an occupational pension scheme as defined in section 1 of the <sup>M1</sup> Pension Schemes Act 1993;

“the terminal period”, in the case of any guaranteed pension scheme, means—

- (a) if a financial year of the scheme ends with the termination date, that financial year; or
- (b) in any other case, so much of the financial year of the scheme in which the termination date falls as ends with that date;

“the termination date”, in the case of any guaranteed pension scheme, shall be construed in accordance with subsection (5)(b);

“the termination year”, in the case of any guaranteed pension scheme, means the financial year of the scheme which consists of or includes the terminal period;

“ trustees ”, in relation to a guaranteed pension scheme, includes a reference to any persons who, under the rules of the scheme, are under a liability to provide pensions or other benefits but who are not trustees of the scheme. ]

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#### Textual Amendments

**F1** S. 52B inserted (16.8.1994) by 1993 c. 43, s. 134(1), **Sch. 11 para. 9**; S.I. 1994/2142, **art. 2**

**F2** Word in s. 52B(10) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 10**; S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provisions and savings in **Sch. 2 Pt. II**)

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#### Marginal Citations

**M1** 1993 c. 48.

**Changes to legislation:**

There are currently no known outstanding effects for the Transport Act 1980, Section 52B.