

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.

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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,

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)—

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- (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)—

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- (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”.
- 12.** In paragraph 6—
- (a) in sub-paragraph (2) the words “(except the amount referred to in sub-paragraph (1))” shall be deleted;

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- (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 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,

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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
- (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”)—

 - (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,

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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”.