

## Your protected rights

If at midnight on 30 September 1994 you were a member of the BR Pension Scheme and were employed by the British Railways Board or one of its successors, your pension rights were transferred to the Railways Pension Scheme (“the Scheme”).

The leaflet seeks to explain the terms “Protected Person” and “Indefeasible Right” and what they mean to you on a change of employer.

The rights referred to in this leaflet arise under the Railways Act 1993 and a parliamentary order known as The Railway Pensions (Protection and Designation of Schemes) Order 1994, (“the Order”), which was made under the 1993 Act and came into force on 31 May 1994. A separate leaflet explains your rights under the Scheme. However, where your rights under the Order are better than those under the Scheme, or vice versa, the better of the two will apply.

The Order is detailed and complex, as it has to cover a range of circumstances, many of which are exceptional. Therefore, this leaflet aims simply to summarise some of the main provisions of the Order as they may apply to you; it should certainly **not** be treated as a definitive statement of your own rights under the Order and the Trustee and rpmi does not accept any responsibility or liability in relation to this leaflet or any explanation set out in it.

### “Protected Persons”

**You are a “Protected Person” if at midnight on 4 November 1993:**

- you were in the BR Pension Scheme and you were employed by the British Railways Board or one of its subsidiaries (“the Board”); or
- you were not at the time working for the Board but have since exercised a statutory or contractual right to return to employment with the Board or one of its successors. In this case, you must have been a member of the BR Pension Scheme when you were last employed by the Board and you must not have taken a transfer payment from the BR Pension Scheme in respect of that previous period of employment (i.e. your pension rights should have remained preserved (“frozen”) in the BR Pension Scheme and not transferred to an alternative scheme or arrangement); or
- you had pension rights in the BR Pension Scheme but were not participating in that scheme.

(The statutory or contractual right extends principally to those absent on maternity leave or seconded to another employer.) You may also be a protected member if you acquired pension rights in consequence of the death of a person falling within one of the categories above.

### What is the “Protection”?

For so long as you remain a Protected Employee:

- the Order requires that your pension rights in the Scheme must be at least as favourable as the rights which the BR Pension Scheme provided on 31 May 1994; and
- your employer has a legal obligation to provide an adequately funded occupational pension scheme which meets these requirements.

If in the future the pension rights you have built up under the Scheme (including rights transferred from the BR Pension Scheme) are transferred to another scheme in circumstances where the Protection continues, you must be credited with past service pension rights at least as favourable as those in the Scheme at the time you transferred.

**You will continue to be a Protected Employee if....**

the ownership of your employer changes, for example on the sale of its shares, or if your contract of employment is transferred compulsorily, for example on the sale of all or part of a business or a change of franchisee, or in other circumstances where you remain in continuous employment under the Employment Protection legislation.

**You will cease to be a Protected Employee if....**

generally, you choose to leave the employment of your current employer or if you choose not to remain a member of the Scheme. However, **you will remain a Protected Person in respect of your accrued pension rights** under the Scheme unless and until you opt to transfer those rights to another scheme or arrangement. Or voluntarily give up some, or all of your protection.

You may elect to give up your protection (or part of it) if you and your employer agree that your benefits may be varied for future service. rpm will explain the procedure to be followed. Once you have given up Protection for part or all of your benefits, you cannot reverse your decision.

If you elect to give up part of your protection in this way, then the forfeiture of your protection still applies, even if you move between employers.

(In certain circumstances you will remain a Protected Employee where there is a break in your contract of employment for the purposes of the Employment Protection legislation or you voluntarily withdraw from the Scheme, but these circumstances are exceptional and will apply to very few people, e.g. if you have moved voluntarily between employers in the railway industry before 1 October 1994.)

**The “Indefeasible Right”****You have the “Indefeasible Right” if at midnight on 4 November 1993:**

- you were in the BR Pension Scheme and were employed by the Board; or
- you were not at the time employed by the Board but have since exercised a statutory or contractual right to return to employment in the railway industry. You must in addition have been a member of the BR Pension Scheme when you were last employed by the Board and must not have taken a transfer payment in respect of that previous period of employment.

**What is the “Indefeasible Right”?**

This is the statutory right to continue to be a member of the Scheme until the Right comes to an end.

**The Right continues....**

if, having left employment with the Indefeasible Right, you resume employment within six months with a railway industry employer and then apply to rejoin the Scheme within six months of starting that employment. However, you must **not** have been employed outside the railway industry within the “gap” period and you must rejoin the Scheme with effect from the date you restart your employment. If you transfer voluntarily or involuntarily without a gap in your employment between railway industry employers you will, of course, satisfy these conditions.

**The Right ends....**

if, other than in the circumstances outlined above, **you choose not to remain a member of the Scheme, you elect to give up the right** or if you cease to be in the employment of an employer engaged in the railway industry, (unless special circumstances apply).