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STATUTORY INSTRUMENTS

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**1994 No. 2577**

**COAL INDUSTRY**

**The Mineworkers' Pension Scheme  
(Modification) Regulations 1994**

<i>Made</i>	- - - -	<i>4th October 1994</i>
<i>Laid before Parliament</i>		<i>7th October 1994</i>
<i>Coming into force</i>	- -	<i>31st October 1994</i>

The Secretary of State, in exercise of the powers conferred on him by section 22(1) of, and paragraph 2(1), (2), (3), (4), (5), (6), (7,) (8) and (11) and paragraph 5(1) and (2) of Schedule 5 to, the Coal Industry Act 1994<sup>(1)</sup> and of all other enabling powers, after consulting, in accordance with paragraph 2(13) of Schedule 5 to that Act, with the British Coal Corporation and the trustees of the Mineworkers' Pension Scheme, hereby makes the following Regulations—

**Citation and Commencement**

1. These Regulations may be cited as the Mineworkers' Pension Scheme (Modification) Regulations 1994 and shall come into force on 31st October 1994.

**Interpretation**

2. In these Regulations

“the 1946 Act” means the Coal Industry Nationalisation Act 1946<sup>(2)</sup>;

“the 1994 Act” means the Coal Industry Act 1994;

“the Scheme” means the Mineworkers' Pension Scheme which was established under the Coal Industry Nationalisation (Superannuation) Regulations 1950<sup>(3)</sup> made under section 37 of the 1946 Act on 1 January 1952 by a resolution of 25 October 1951 of the National Coal Board and which was amended by subsequent resolutions of that Board the name of which was changed to the British Coal Corporation by section 1(1) of the Coal Industry Act 1987<sup>(4)</sup>.

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(1) 1994 c. 21.  
(2) 1946 c. 59.  
(3) S.R. &O. 1950/376.  
(4) 1987 c. 3.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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### **Continuance in Force of the Scheme**

3. The Scheme, being an existing scheme within the meaning of Schedule 5 to the 1994 Act, shall continue in force notwithstanding the repeal by the 1994 Act of section 37 of the 1946 Act and of the enactments modifying that section.

### **Modification of the Scheme**

4. The Scheme shall be modified so as to have effect as set out in the Schedule hereto by the omission of the provisions thereof which are crossed out in that Schedule and the insertion of the provisions which appear therein in italics.

4th October 1994

*Tim Eggar*  
Minister for Industry and Energy,  
Department of Trade and Industry

THE SCHEDULE

Regulation 4

THE SCHEME AS MODIFIED  
MINEWORKERS' PENSION SCHEME

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## MINEWORKERS' PENSION SCHEMETHETHE SCHEME

### PRELIMINARY

1. The Scheme shall be deemed to have been established on 1st January 1952 by the National Coal Board by the Resolution numbered 1 in the Third Schedule to the Rules annexed hereto and shall be deemed to have been governed by the terms of the Scheme and Rules annexed to the said Resolution (“the Original Scheme”) as amended from time to time by the Resolutions listed in the Third Schedule. The provisions of the Scheme (other than Clause 41 and the Rules) as set out in these presents shall constitute the Scheme with effect from the 1994 Amendment Date. The provisions of the Rules (and Clause 41) as set out in these presents shall apply in respect of all contributing members as at the 1994 Amendment Date and the entitlement of persons ceasing to be contributing members prior to the 1994 Amendment Date shall be determined by those provisions of the rules comprised in the Original Scheme as amended by those of the resolutions listed in the Third Schedule as were in force on or subsequently made and put into force so as to be effective on the date each such person ceased to be a contributing member.

### CONTRIBUTIONS

2.—(1) *Before the Closure Date* every Employer shall pay as Standard Contributions a sum equal to 9.75% of the Earnings paid by him to members employed or deemed to be employed by him in respect of any period during which a member is in Contributing Service Provided that

(i) the Principal Employer shall not be required to pay Standard Contributions equal to 9.75% of such Earnings in respect of such period during the period which commenced on 26th March 1989 and terminates on 28th October 2000; and

(ii) every Employer other than the Principal Employer shall not be required to pay Standard Contributions equal to 9.75% of such Earnings in respect of such period during the period which commenced on 1st April 1990 and terminates on 27th October 2001.

(2) *Before the Closure Date* the Principal Employer shall pay as Deficiency Contributions after the coming into operation of any determination of Deficiency Contributions made by the Actuary under Clause 17, such payments as may become payable by them thereunder or as may be necessary on the advice of the Actuary.

(3) *Before the Closure Date* every Employer other than the Principal Employer or Employers of Branch Secretaries shall pay as Deficiency Contributions after the coming into

operation of any determination of Deficiency Contributions made by the Actuary under Clause 17 such payments as may become payable by him thereunder or as may be necessary on the advice of the Actuary.

- (a) The total amount of any Standard Contributions or Deficiency Contributions payable by an Employer during any period shall be reduced by an amount equal to the difference between the total amount of any Contributions Equivalent Premiums paid by that Employer during that period insofar as they relate to periods of service in respect of which a pension would or might otherwise have become payable under Rule 9A and the total of the amounts recovered by that Employer during that period under or by virtue of section 47 of the Pensions Act.
  - (b) The total amount of any Standard Contributions or Deficiency Contributions payable by the Principal Employer shall be reduced by such sum as may from time to time be agreed by the Principal Employer and the Committee of Management as being fair and reasonable, having regard to the costs of managing and administering the Scheme (other than such costs as are referred to in paragraph (c) of Clause 7) and the cost to the Principal Employer of services rendered by the Principal Employer in connection with or for the purposes of the Scheme, or in default of agreement as shall be determined to be fair and reasonable having regard to such costs or cost by a chartered accountant who shall be agreed by the Principal Employer and the Committee of Management or, in default of agreement, nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales.
  - (a) *Before the Closure Date* every Employer, other than the Principal Employer shall pay to the Principal Employer on the last day of every month (or on such other dates as may from time to time be determined by the Principal Employer) the following amounts in respect of the period since the last preceding payment made under this paragraph.
    - (i) the amount of contributions payable under the Rules by or in respect of members employed or deemed to be employed by such Employer insofar as the case of contributions payable under the Rules as they have effect on and after 6th April 1975 as they are calculated on the basis of Earnings paid or deemed to be paid by that Employer; and
    - (ii) the amount of all sums payable by that Employer as Standard Contributions and Deficiency Contributions.
  - (b) Every payment made under sub-paragraph (a) of this paragraph shall be accompanied by a statement in writing of how the amount paid is made up, and if it shall subsequently be discovered that the amount so shown and paid was greater or less than the true amount payable the over-payment or under-payment shall be adjusted by a deduction from or addition to the next succeeding payment required to be made under sub-paragraph (a) of this paragraph insofar as in the case of an over-payment as it is sufficient for that purpose, and if in such case that payment is not so sufficient, the excess shall be payable in cash by the Principal Employer on demand.
  - (6) *The obligations of an Employer under this Clause to make contributions to the Scheme by reference to the Earnings of members of the Scheme employed by it shall cease in respect of any member upon that member's Transfer Date.*
3. With effect from 6th April 1975, for the purposes of Clause 2—
- (a) A member shall be deemed to be employed by any person or persons (including any body of persons incorporated or unincorporated) who is or are an Employer in relation to him;

- (b) During any Scholarship Period in relation to a member, that member shall be deemed to be employed by the Principal Employer and the Earnings which are deemed to be his Earnings under the Rules shall be deemed to be paid to him by the Principal Employer and
- (c) Such Earnings of a member engaged in Inspection Activities as consist of Payments made to him in relation to such Inspection Activities shall be deemed to be paid to him by the persons (including any body of persons incorporated or unincorporated) who are his Employer for the purposes of such Inspection Activities in the same proportions as the proportions of such Payments or of the funds from which such Payments are made which those persons are respectively responsible for making or providing.

**3A.** *With effect from the Closure Date all obligations under Clauses 2 and 3 regarding the payment of Standard Contributions and Deficiency Contributions other than in respect of the additional cost of benefits payable in respect of members made redundant prior to March 1981 shall cease.*

**4.** *Before the Transfer Date each member shall contribute such sums as may from time to time be provided under the Rules. The Principal Employer shall be responsible for the collection of all contributions payable by or in respect of members and for the payment of all such contributions to the Scheme.*

#### **ADMISSION OF OTHER EMPLOYERS AND NEW MEMBERS**

**4A.—(1)** *With the consent of (before the Guarantee Date) the Committee of Management or (on and after the Guarantee Date) the Committee of Management and the Guarantor, employees of any Employer which was not participating in the Scheme as at 16th July 1991 and who before the Closure Date are eligible to become members under the provisions of Rule 1 shall be eligible for membership of the Scheme Provided that*

- (i) *any such Employer shall enter into a deed by which it covenants with the Committee of Management to comply with and observe the provisions of the Scheme so far as they are applicable to it as an Employer; and*
- (ii) *the participation of any such Employer will not prejudice approval of the Scheme by the Commissioners of Inland Revenue; and*
- (iii) *the Committee of Management shall not be entitled to give their consent unless any such Employer covenants to pay such contributions as the Actuary shall determine to be fair and reasonable and unless the Actuary gives an opinion to the effect that the admission to the Scheme of the existing employees (if any) of any such Employer on the terms proposed is unlikely within the following five years to prejudice significantly the rights or interests of any person already a member at the date of such admission.*

*Provided also that sub-paragraphs (i) and (iii) of the said proviso shall not apply to Small Mine Licensees or Subsidiaries of the British Coal Corporation.*

- (a) *New employees of Employers (subject to the exceptions mentioned in sub-paragraph (b) of this paragraph) shall not be eligible for membership of the Scheme without the consent of (before the Guarantee Date) without the consent of the Committee of Management or (on and after the Guarantee Date) the Committee of Management and the Guarantor) Provided that the Committee of Management shall not be entitled to give their consent unless the Actuary gives an opinion to the effect that the admission of such new employees to the Scheme on the terms proposed is unlikely within the following five years to prejudice significantly the rights or interests of any person already a member at the date of such admission.*

- (b) The following categories of new employees shall be excluded from the provisions of sub-paragraph (a) of this paragraph:
- (i) new employees of the British Coal Corporation and of any Employer which at the time of the new employee accepting employment is a Subsidiary of the British Coal Corporation;
  - (ii) new employees of the Principal Employer other than the British Coal Corporation who accept employment in the ordinary course of that part of its business which such Principal Employer shall have acquired from the British Coal Corporation; and
  - (iii) new employees of any other Employer who accept employment in the ordinary course of that Employer's business.

(3) *After the Closure Date the powers of admission of Employers and new Members under this Clause 4A shall cease.*

## CONSTITUTION OF FUNDS

5.—(1) With effect from 1st October 1974 the monies of the Scheme shall constitute the Mineworkers' Pension Fund, hereinafter called "the Pension Fund".

(2) With effect from 6th April 1975 the members for the time being of the committee of management shall, subject as hereinafter provided, be the trustees of the Scheme and of its monies.

5A.—(1) *With effect from the Guarantee Date the Guarantor shall have power subject to paragraphs (2) and (3) of this Clause exercisable by notice in writing (sent to the person to be appointed) signed on behalf of the Guarantor and having effect from the date specified in such notice to appoint a new trustee of the Scheme and of the Pension Fund in place of any trustee who ceases to be a trustee and the Guarantor shall also have power exercisable in like manner to remove a trustee of the Scheme and of the Pension Fund from office.*

(2) *With effect from the Guarantee Date the Guarantor will appoint Mineworkers' Pension Scheme Trustees Limited or such other person as shall be appointed by the Guarantor under the power mentioned in paragraph (1) of this Clause as sole trustee of the Scheme and the Pension Fund.*

(3) *In the event of Mineworkers' Pension Scheme Trustees Limited or any other trustee appointed in accordance with paragraph (1) of this Clause ceasing after the Guarantee Date for any reason to be the trustee of the Scheme and of the Pension Fund, the Guarantor shall forthwith appoint a new trustee or trustees of the Scheme and of the Pension Fund comprising either:—*

- (i) *a new corporate trustee whose Articles of Association would be in a form corresponding as closely as possible to those of Mineworkers' Pension Scheme Trustees Limited at the time it ceases to be a trustee and would provide for the appointment of a committee of management consisting of ten persons, of whom five would be appointed by and would be subject to removal by the Guarantor, and five would be appointed by and would be subject to removal in accordance with rules to be agreed between the Guarantor and such organisations as represented substantial proportions of the classes of the employees and former employees of the Principal Employer who are Members of the Scheme Provided that*

- (a) *in the event that it is not possible to agree such rules or there is a dispute as to which organisations represent substantial proportions of the classes of the Principal Employer's employees who were*



*Members of the Scheme the matter shall be referred to a single Arbitrator to be named by the President for the time being of the Law Society. The Arbitrator so named shall have all the powers conferred on Arbitrators by the Arbitration Acts 1950 and 1979;*

*(b) With effect from 1st October 1995 two of the persons appointed by organisations referred to above (one from each organisation) shall (subject to the appointment of replacements) cease to be members of the committee of management and shall be replaced by two persons elected to represent the members of the Scheme in accordance with procedures identical to those set out in the Appendix to the Articles of Association of Mineworkers' Pension Scheme Trustees Limited;*

*(c) With effect from 1st April 1996 the remaining three persons appointed by the organisations referred to above shall (subject to the appointment of replacements) cease to be members of the committee of management and shall be replaced by three persons elected to represent the members of the Scheme in accordance with the procedures identical to those set out in the Appendix to the Articles of Association of Mineworkers' Pension Scheme Trustees Limited; or*

*(ii) ten individual trustees the selection appointment and removal of whom would be carried out in a manner corresponding to that referred to in (i) above in respect of the committee of management of a new corporate trustee.*

*(4) With effect from the Guarantee Date the Guarantor shall appoint the Chairman of the Committee of Management and the Chairman so appointed shall have, in the case of an equality of votes, a second or casting vote. Provided that any person appointed as Chairman may not be a Crown Servant or a member of the Scheme and will only be appointed by the Guarantor after consultation with the Committee of Management.*

*(5) With effect from the Guarantee Date:—*

*(i) All powers expressed by the Scheme, in whatever terms, to be vested in, conferred on or exercisable or to be exercised by the Committee of Management shall be vested in the Trustee;*

*(ii) Such powers and all other powers vested in, conferred on or exercisable or to be exercised by the Trustee under or by virtue of the Scheme shall be exercised by it and on its behalf by and through the Committee of Management in their capacity as the Committee of the Trustee within the meaning of the Articles of Association of the Trustee (hereinafter called "the Articles") or any other person or body of persons required, authorised or empowered to exercise such powers or any of them by or under any provision of the Scheme and by or under the Articles; and*

*(iii) Save in relation to Clause 39 and the meanings assigned to "the Committee of Management" by Clause 41(2), any reference in the Scheme, in whatever terms, to the Committee of Management shall be construed as a reference to the Trustee acting by and through the Committee of Management in the capacity specified in sub-paragraph (ii) of this paragraph or any other person or body of persons required, authorised or empowered to act for it or on its behalf for that purpose by or under any provision of the Scheme and by or under the Articles.*

*Provided that except insofar as is otherwise expressly provided therein, neither the Articles, any amendment to the Scheme taking effect from the Guarantee Date, nor any act or thing done in consequence or pursuance of or in connection with the Articles or any such amendment or deed shall affect the validity, operation or effect of anything done*

*or omitted to be done before the Guarantee Date by, for or on behalf of the Committee of Management, any sub-committee of such Committee of Management so constituted, or the Joint Secretaries (within the meaning of the Scheme as it had effect from time to time before that date).*

6. There shall be paid into or held to the credit of the Pension Fund—
- (a) All Standard Contributions and Deficiency Contributions payable by the Principal Employer;
  - (b) All sums received by the Principal Employer from other Employers in respect of Standard Contributions and Deficiency Contributions payable by such Employers and in respect of members' contributions;
  - (c) All sums collected by the Principal Employer as members' contributions;
  - (d) All sums received by way of Transfer Value Payments or received before 6th April 1975 as payments by way of transfer from any other superannuation scheme, and all sums accepted by the Scheme on or after 6th April 1975 by way of Transfer Payments from any other Occupational Pension Scheme;
  - (f) All dividends, interest and benefits arising out of the investment or employment of the Pension Fund or any part thereof;
  - (g) All other sums received or held by the Principal Employer or the Committee of Management in connection with or for the purposes of the Scheme.
7. There shall be paid out of the Pension Fund—
- (a) All benefits payable to any person under the Rules;
  - (b) All costs and expenses of the administration of the Scheme incurred before 1st October 1975 or on or after 31st December 1994;
  - (c) All costs and expenses incurred by virtue of the exercise of the powers conferred by paragraph (2) of Clause 10;
  - (d) Any sums payable under the Rules as they have effect from time to time by way of Transfer Value Payments, Transfer Payments or other payments by way of transfer to any other Occupational Pension Scheme or other superannuation scheme;
  - (e) All sums payable by law out of the Pension Fund or by the Committee of Management in their capacity as trustees or administrators of the Pension Fund or of the Scheme.

*Provided that no such payments shall be made out of the Investment Reserve except pursuant to Clauses 18A, 18B or 40.*

*7A. With effect from the Guarantee Date all payments of Bonus Augmentations or Crystallised Augmentations other than Guaranteed Crystallised Augmentations shall be made only from the Bonus Augmentation Fund.*

## **MANAGEMENT OF PENSION FUND**

8.—(1) So much of the moneys of the Scheme as shall not from time to time be required for application in the payment of pensions or other benefits or otherwise shall as soon as practicable be invested by the Committee of Management in or upon the security of such investments whatsoever and wheresoever situate whether or not involving liability or whether or not producing income and whether or not otherwise authorised by law for the investment of trust funds as the Committee of Management shall in their absolute discretion think fit to the intent that the Committee of Management shall have the same unrestricted powers of making,

varying, managing and transposing investments as if they were absolutely entitled to such moneys beneficially.

(2) Without prejudice to the generality of the foregoing powers the Committee shall have power:—

- (a) to effect and maintain policies of insurance;
- (b) to retain or place any such moneys on deposit or current account with any bank or on deposit with any company, local authority, building society or insurance company in any part of the world and for such periods as they shall think fit; and
- (c) to carry out any improvements of any kind to land or buildings in which the Scheme has an interest including the erection demolition and reconstruction of any buildings and the development of land and other property.

(3) The Committee of Management shall have power to appoint one or more nominees or custodian trustees to hold investments on behalf of the Committee of Management.

(4) The Committee of Management shall have power to raise or borrow any sum or sums of money and to secure the repayment thereof in such manner and upon such terms as they think fit and to charge the sums so raised or borrowed or any part thereof on all or any part of the Scheme Fund.

(5) The Committee of Management shall have power to enter into any transaction which is not authorised by any of the other provisions of the Scheme or otherwise by law and which in their opinion is beneficial to the Scheme and, without prejudice to the generality of the foregoing, the Committee of Management shall have power:—

- (a) to lend any investments of the Scheme Fund to any person or corporation on such terms and for such purposes as the Committee of Management may think fit;
- (b) to underwrite, sub-underwrite or guarantee the subscription of any stocks, shares, debenture stocks or other investments; and
- (c) to give any warranty or indemnity in connection with the exercise of their powers under this Clause.

(6) Moneys may be invested or laid out in or upon any investment or transaction of any nature hereby authorised notwithstanding that the same may be acquired or entered into by the Committee of Management jointly or in common with any other person or corporation.

**8A.**—(1) Notwithstanding the provisions of Clause 8 no part of the Pension Fund shall at any time be invested in employer-related investments as defined in paragraph (2) of this Clause save that the Pension Fund may at any time be invested in not more than 3 per cent of any class of any securities issued by an Employer or any such company as is referred to in sub-paragraph (a)(i) of paragraph (2) of this Clause which are listed or permitted to be dealt in on any recognised stock exchange.

(2) For the purposes of this Clause:—

- (a) “employer-related investments” means—
  - (i) shares or other securities issued by an Employer or by any holding company as defined in section 736 of the Companies Act 1985 of an Employer or by any company in which an Employer or such holding company holds a majority of the voting rights;
  - (ii) property (other than land) which is used for the purposes of any business carried on by an Employer or any such company as is referred to in sub-paragraph (a)(i); and

(iii) loans to an Employer or any such company as is referred to in sub-paragraph (a) (i); and

(b) “securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.

**9.—(1)** The Committee of Management by themselves or any nominee on their behalf shall have power to do all or any of the following:—

- (a) to carry on any business or other activity in partnership whether in the United Kingdom or elsewhere;
- (b) to enter into any business or other partnership with others whether in the United Kingdom or elsewhere, or to acquire by subscription or otherwise an interest whether freely transferable or not in any such partnership;
- (c) from time to time to finance or provide funds whether by way of loan or further investment or otherwise for any partnership or proposed partnership of which they or their nominee may for the time being be partners or propose to become partners; and
- (d) from time to time to enter into any arrangement or agreement whether by way of substitution for or modification of any then subsisting arrangement or agreement or otherwise with all or any of the other partners or proposed partners in any partnership or proposed partnership of which they or their nominee may for the time being be partners or propose to become partners.

(2) The Committee of Management or any nominee on their behalf shall have power without being liable for any loss occasioned thereby to leave the entire management of any business or activity carried on by any partnership of which they or such nominee may for the time being be partners to any other partners or partner without any obligations on their or such nominee’s part to attend thereto further than to require such other partners or partner to render an account thereof from time to time as the Committee of Management or such nominee may think appropriate.

(3) For the avoidance of doubt the Committee of Management shall have power:—

- (i) to employ any moneys of the Scheme not required for payment of pensions or other benefits; and
- (ii) to enter into transactions in connection with such a partnership

as though such a partnership were an investment authorised under paragraph (1) of Clause 8.

(4) For the purposes of this Clause “business” includes any trade, profession or occupation.

**9A.** *The Committee of Management shall with effect from the Guarantee Date exercise and perform their powers and duties under Clauses 8, 8A and 9 in accordance with and subject to any directions as the Guarantor may from time to time make. Provided that the Guarantor will only make such directions after consultation with the Committee of Management unless in exceptional circumstances such consultation is impracticable.*

**10.—(1)** Without prejudice to the provisions of or to any powers conferred by Section 23 of the Trustee Act 1925 or Clauses 8, 9, 31 and 32, the Committee of Management shall have power (*such power to be exercisable with effect from the Guarantee Date only with the consent of the Guarantor*) to employ such nominees or agents as the Committee of Management may think fit in the transaction of any business of the Scheme (including the payment of pensions and other benefits) and any valid receipt therefor given to or by such nominee or agent shall be a good and sufficient discharge to the Committee of Management.

(2) Without prejudice to the generality of the foregoing and the provisions of Clauses 31 and 32, the Committee of Management shall have power (*such power to be exercisable with*

*effect from the Guarantee Date only with the consent of the Guarantor) to appoint and remove one or more investment managers to the Scheme and to authorise any such investment manager to exercise all or any of their powers set out in Clauses 8, 9 and paragraph (1) of this Clause on such terms as to remuneration and otherwise as shall from time to time be agreed between the Committee of Management (with effect from the Guarantee Date with the consent of the Guarantor) and such investment manager or managers.*

### **COST OF ADMINISTRATION**

**13.—**(1) The Committee of Management shall at such times and in such manner as may be agreed between the Committee of Management and the Principal Employer pay to the Principal Employer such amounts as are certified by a duly authorised officer of the Principal Employer

- (a) To have been expended by the Principal Employer in the payment of benefits under the Rules; or
- (b) To be required to meet the costs of the Principal Employer's participation in the administration of the Scheme and of any services rendered by the Principal Employer to the Committee of Management in connection with or for the purposes of the Scheme, insofar as incurred in either case before 1st October 1975 *or on or after 31st December 1994*, on such basis as shall be agreed between the Principal Employer and the Committee of Management as fair and reasonable or in default of agreement as shall be determined by an Accountant who shall be agreed by the Principal Employer and the Committee of Management or in default of agreement nominated by the President for the time being of the Institute of Chartered Accountants.
- (a) The costs of managing and administering the Scheme (other than such costs as are referred to in paragraph (c) of Clause 7) and the cost to the Principal Employer of services rendered by the Principal Employer in connection with or for the purposes of the Scheme insofar as incurred in either case on or after 1st October 1975 *and before 31st December 1994* shall subject to the provisions of paragraph (4) of Clause 2 be borne by the Principal Employer.
- (b) The costs referred to in paragraph (c) of Clause 7 insofar as incurred on or after 1st October 1975 shall be payable by or with the authority of the Committee of Management out of the Pension Fund.

### **ACCOUNTS AND AUDIT**

**14.—**(1) The Committee of Management shall cause to be kept full and true accounts of the Pension Fund and of all sums of money received and payments made by the Committee of Management and by all persons employed by or under the Committee of Management and shall cause to be kept full and correct records of all matters necessary or proper to be recorded. Separate accounts shall be kept in relation to additional voluntary contributions made by members under Rule 5. The accounts and records of the Committee of Management shall be at all times open to the inspection of the members of the Committee of Management.

(2) *The Committee of Management shall create and maintain and cause to be incorporated in the accounts of the Scheme and the Auditors' report thereon, separate accounts showing the workings of each of the Investment Reserve, the Guarantor's Fund, the Bonus Augmentation Fund, the Crystallised Augmentation Fund and the Guaranteed Fund recording in full the accretions to and the payments from and transfers between each of those Funds. The terms of all Bonus Augmentations, Crystallised Augmentations (if any) and Guaranteed Crystallised Augmentations (if any) shall be recorded and documented separately in the Ninth Schedule. The terms on which any Guaranteed Crystallised Augmentations cease to be a liability of the Guaranteed Fund as a consequence of the application of later surpluses in the Bonus*

*Augmentation Fund shall also be recorded in a similar manner. In respect of the benefits payable or secured out of the Bonus Augmentation Fund or otherwise records shall be kept of all Bonus Augmentations in respect of each member entitled to Bonus Augmentations, Crystallised Augmentations and Guaranteed Crystallised Augmentations showing the amounts paid or payable.*

**14A.** The Committee of Management shall from time to time with the consent of the Principal Employer appoint some person or firm with proper professional qualifications to be the auditors to the Scheme upon such terms as to duties and remuneration as the Committee of Management and the Principal Employer may think proper. No member of the Committee of Management shall be eligible for appointment as the auditors to the Scheme. The terms of any appointment of auditors under this Clause shall comply with the Occupational Pension Schemes (Auditors) Regulations 1987.

**14A.** *The Committee of Management shall with effect from the Guarantee Date and from time to time with the consent of the Guarantor, appoint some person or firm with proper professional qualifications to be the auditors of the Scheme upon such terms as to duties and remuneration as the Committee of Management and the Guarantor may think proper. No member of the Committee of Management and none of the directors or executive officers of any corporate trustee of the Scheme shall be eligible for appointment as auditors to the Scheme. The terms of any appointment of auditors under this Clause shall comply with the Occupational Pension Schemes (Auditors) Regulations 1987.*

**15.—(1)** The Committee of Management shall cause statements of account including balance sheets, to be prepared as hereinafter provided.

(2) With effect from 6th April 1975 the said statements shall be made up to 30th September in each year or to such other date as the Committee of Management may determine.

(3) Each such statement shall be completed not later than six Months after the date to which it is made up, and the Auditors shall make a report on such statement which shall be attached to it.

(4) The Auditors shall have a right of access at all times to the books and accounts of the Committee of Management and all vouchers relating to the items shown therein and shall be entitled to require from the Committee of Management and their officers such information and explanations as they deem necessary for the performance of their duties.

**16.** A copy of every annual statement of account and of the Auditors' report attached thereto shall be delivered to the Principal Employer (*before the Guarantee Date*) or to the Guarantor (*on and after the Guarantee Date*) and to each Appointing Union within three months of the date on which they are completed.

**16A.** *The Committee of Management shall (i) promptly supply to the Guarantor information regarding the Scheme including without prejudice to the generality of the foregoing copies of reports prepared received or commissioned by the Committee of Management regarding the management of the Scheme and the investment of the assets of the Scheme and (ii) promptly supply such further information as the Guarantor may request.*

## **PERIODICAL VALUATION**

**17.—(1)** The Actuary shall make periodic reviews of the financial condition of the Scheme. Each period including or after 6th April 1975 in respect of which such a periodic review is made—

- (a) Shall commence in the case of the first such review after 5th April 1975 on the day immediately following the end of the period in respect of which the last periodic review was made under Clause 17 of the Scheme as it had effect immediately before

6th April 1975 and in the case of each subsequent review on the day immediately following the end of the period in respect of which the last preceding review was made under this Clause;

- (b) Shall not in any event exceed three and a half years;
- (c) Shall be three years unless *prior to the Guarantee Date* the Committee of Management or *on and after the Guarantee Date* the Committee of Management with the consent of the Guarantor determine otherwise in any particular case.
- (a) On each such periodic review *before the Guarantee Date*—
  - (i) The Actuary shall make recommendations as to the total of the rates of members' Normal and Employers' Standard Contributions to the Scheme.
  - (ii) The Actuary shall determine whether or not, at the review date, there is a surplus or deficiency in the Pension Fund if contributions after the review date are paid at the rate or rates recommended in sub-paragraph (i) of this paragraph. For the purpose of such determination Deficiency Contributions paid or yet to be paid to meet the additional cost of benefits payable in respect of members made redundant since March 1981 shall be regarded as an asset of the Pension Fund.
  - (iii) If there is such a deficiency, after allowing for the Deficiency Contributions paid or yet to be paid specified in sub-paragraph (ii) of this paragraph, the Actuary shall determine the total periodic sum, either fixed in money terms or linked to average earnings or prices, (in this paragraph called “the deficiency sum”) which, in his opinion, is required to be paid by way of Deficiency Contributions to the Scheme over a period of such number of Accounting Years of the Principal Employer not exceeding twenty, commencing on such date not earlier than the review date and at such periodic intervals all as shall be determined by the Principal Employer.
- (b) Having regard to any determination pursuant to sub-paragraph (a) of this paragraph, the Actuary shall review any previous determination of Deficiency Contributions then operative made by him and shall substitute for such previous determination a fresh determination of Deficiency Contributions which shall consist of a determination of—
  - (i) the amount or proportion of each deficiency sum which shall be payable by way of a Deficiency Contribution by each Employer other than the Principal Employer or Employers of Branch Secretaries, the first of which Deficiency Contributions shall be payable by each such Employer respectively in accordance with the provisions of paragraph (5) of Clause 2 within one month after the date referred to in sub-paragraph (a) of this paragraph; and
  - (ii) the amount or proportion of each deficiency sum remaining after the subtraction therefrom of the total of the amounts or proportions thereof referred to in sub-paragraph (b)(i) of this paragraph which remaining amount or proportion shall be payable as a Deficiency Contribution by the Principal Employer.
- (c) In making any determination under sub-paragraph (b)(i) of this paragraph, the Actuary may insofar as he thinks fit have regard to the relationship or likely relationship, at such date as he may on the occasion of each such determination consider appropriate—
  - (i) between the number of members employed by Employers other than the Principal Employer or Employers of Branch Secretaries and the total number of members employed in Eligible Employment; and or alternatively

- (ii) between the amount of weekly Earnings paid or deemed to be paid to members by Employers other than the Principal Employer or Employers of Branch Secretaries and the total amount of weekly Earnings paid or deemed to be paid to members by all Employers;

and the provisions of Clause 3 shall apply for the purposes of this sub-Clause as they apply for the purposes of Clause 2.

(3) On each periodic review *before the Guarantee Date* the Actuary shall make a report to the Committee of Management on the financial condition of the Scheme, specifying the determination made by him under paragraph (2) of this Clause. A copy of each review and report so made shall be delivered by the Committee of Management to the Principal Employer and to each Appointing Union, together with any recommendation they may wish to make having regard thereto.

**18.** With effect from 6th April 1975 *and until the Guarantee Date*, if having regard to the results of any review *before the Guarantee Date* and the contents of any report *thereon* made under Clause 17 it appears to them expedient or desirable so to do, the Committee of Management shall review the Scheme and shall report to the Principal Employer and each Appointing Union the results of their review and such amendments and variations (if any) of the Scheme as the Committee of Management may consider expedient or desirable having regard thereto.

**18A.** Following the periodic review of the financial condition of the Scheme by the Actuary as at 30th September 1993 the balance of the surplus remaining after deducting:

- (i) the actuarial value calculated as at 13th June 1994 of the improvements to benefits specified in Rules 25(2) and 26AAA; and
- (ii) the actuarial value of relieving Employers from the obligation to pay Standard Contributions under Clause 2(1) for such period as there are members paying Normal Contributions to the Scheme

shall be available to be used as an investment reserve to be established on a date falling on or after 15th September 1994.

- (a) *As soon as practicable after the Guarantee Date the Actuary shall make and advise the Committee of Management of the initial determination of the Investment Reserve which shall be calculated as at the Guarantee Date and shall be the Present Value of the total surplus (expressed in terms of market values) as at the 30th September 1993 actuarial review LESS the aggregate of:—*

- (i) *the Present Value of the capital value (expressed in terms of market values) as at the 30th September 1993 actuarial review of the amount applied for the benefit of members; and*
- (ii) *the Present Value of the aggregate amounts which would have been contributed to the Scheme by the Employers since 30th September 1993 on the basis of the recommendation of the Actuary under Clause 17(2)(a)(i) following the actuarial review of the Pension Fund as at 30th September 1993 up to the Guarantee Date as Standard Contributions but for the suspension of that liability by operation of sub-paragraphs (1)(i) and (1)(ii) of Clause 2;*

- (b) *On each periodic actuarial review following the Guarantee Date the Actuary shall review the determination of the Investment Reserve and where appropriate shall recommend to the Committee of Management that it makes such adjustments to the Investment Reserve as he may consider appropriate in order to:—*

- (i) *provide for transfers from the Investment Reserve to the Guaranteed Fund pursuant to paragraphs (4)(b)(I), (4)(b)(II) or (5)(iv) of Clause 18B;*



- (ii) provide for transfers to the Investment Reserve from a surplus in the Guaranteed Fund pursuant to paragraph (4)(a) of Clause 18B;
  - (iii) provide for an adjustment to the payments to the Guarantor under (c) below so as to achieve the reduction of the Investment Reserve to a nil amount over a period of 25 years from the Guarantee Date or such longer period as the Guarantor may from time to time determine;
  - (iv) provide for the continued application since the later of the Guarantee Date and the last review date by way of transfers to the Guaranteed Fund from the Investment Reserve of amounts for the benefit of the Employers by way of contribution reductions pursuant to sub-paragraphs (1)(i) and (1)(ii) of Clause 2; and
  - (v) make allowance in any of the calculations (i) (ii) (iii) or (iv) above or generally in the review of the determination of the Investment Reserve for timing differences, investment returns and future investment returns and for these purposes shall make such actuarial assumptions regarding future investment returns as are consistent with those employed in the periodic review being carried out or where such assumptions are required for the initial determination of the Investment Reserve, the Actuary may make such assumptions as to future investment returns as he shall consider appropriate.
- (c) Subject to the provisions of Clause 18B which apply in the event of a periodic valuation of the Guaranteed Fund disclosing a deficiency in the Guaranteed Fund, the Committee of Management shall each year following a periodic actuarial review of the Pension Fund after the Guarantee Date pay to or apply for the benefit of the Guarantor such part of the Investment Reserve as the Actuary shall at that periodic actuarial review determine to be appropriate in respect of the period until the next review.
- (d) For the purposes of this Clause and Clause 18B:—
- (i) “investment returns” (including capital gains or losses realised or unrealised and net of expenses) shall be attributed to the Investment Reserve, the Guarantor’s Fund or the Bonus Augmentation Fund, as the case may be, every quarter by applying the proportion that the average notional balance in the relevant fund in that quarter bears to the average assets of the Pension Fund to the total investment return (including capital gains or losses realised or unrealised) earned by the Pension Fund in that period;
  - (ii) “Present Value” of a previously determined value or amount shall mean that value or amount together with investment returns attributable to the period between the date at which the amount or value was originally determined and the date at which the present value falls to be determined;
  - (iii) the Investment Reserve shall be initially determined as provided in sub-paragraph (a), subsequently and periodically adjusted as provided in sub-paragraph (b) and reduced by payments to the Guarantor as provided in sub-paragraph (c). The provisions of this Clause and Clause 18B regarding the Investment Reserve shall continue to have effect after any time at which it has no assets.

**18B.—(1)** On and with effect from the Guarantee Date there shall be created within that part of the Pension Fund other than the Investment Reserve the following notional sub-funds:—

“the Guarantor’s Fund”;

*“the Bonus Augmentation Fund”;*  
*“the Guaranteed Fund”;* and  
*“the Crystallised Augmentation Fund”*

which shall be comprised and be maintained on a notional basis in the manner set out in paragraph (2) below to reflect the particular credit and debit items referred to in that paragraph.

(2) Following each periodic actuarial review after the Guarantee Date the payments or adjustments referred to in sub-paragraphs (a) and (b) shall be made.

- (a) there shall be credited to the Guarantor’s Fund:—
- (i) a share of any surplus under paragraph (4)(a)(ii); and
  - (ii) investment returns calculated in accordance with paragraph (d)(i) of Clause 18A.
  - (iii) any payments received by the Pension Fund from the Guarantor following a certification as is referred to in either paragraph (4)(b)(II)(iii) of this Clause or Clause 40(4)(d).

There shall be debited from the Guarantor’s Fund:—

- (1) payments to the Guarantor under paragraph (3)(i); and
  - (2) transfers to the Guaranteed Fund pursuant to paragraph (4)(b)(II)(iv).
- (b) There shall be credited to the Bonus Augmentation Fund:—
- (i) a share of any surplus under paragraph (4)(a)(i); and
  - (ii) investment returns calculated in accordance with paragraph (d)(i) of Clause 18A.

There shall be debited from the Bonus Augmentation Fund:—

- (1) such amounts as the Committee of Management acting on the advice of the Actuary determine to be necessary to provide Bonus Augmentations; and
- (2) transfers to the Guaranteed Fund pursuant to paragraph (4)(b)(II)(ii).
- (c) The Guaranteed Fund shall comprise that part of the Pension Fund other than the Guarantor’s Fund, the Bonus Augmentation Fund and the Investment Reserve.
- (d) The Crystallised Augmentation Fund shall comprise that part of the Guaranteed Fund out of which liability for Guaranteed Crystallised Augmentations shall be met.

(3) The following provisions apply in relation to the operation of the Guarantor’s Fund and the Bonus Augmentation Fund:—

- (i) The Committee of Management shall pay from any share transferred to the Guarantor’s Fund under paragraph (4)(a)(ii) following a periodic review on or after the Guarantee Date amounts (after deduction of any tax due thereon) to the Guarantor as a series of payments over a ten year period beginning on the date of the review. The Actuary shall in respect of each series of ten annual payments determine the amount of the annual payments with the aim that the balance of the share to be paid shall be so paid uniformly over the ten year period and at the first and second periodic reviews following the commencement of the payments the Actuary shall review and if necessary adjust the amounts of the annual payments in any series of payments being made to maintain the uniform payment over the ten year period. Each annual payment shall be made as at 1st October in each year. The last annual payment in a ten year series shall be determined by the Actuary at the third

*periodic review following the commencement of that series of payments as the amount necessary to complete that series of payments.*

- (ii) *Subject to Clause 40 no amounts may be paid credited lent or otherwise transferred to the Bonus Augmentation Fund other than amounts credited as investment returns within the meaning of sub-paragraph (d)(i) of Clause 18A or transfers to the Bonus Augmentation Fund as a share of surplus under paragraph (4)(a)(i).*

*(4) On each periodic review on or after the Guarantee Date the Actuary (using an actuarial method and assumptions selected by him after consultation with the Committee of Management and the Guarantor) shall determine the value of the assets and liabilities of the Pension Fund and in particular shall determine whether or not at the review date there is a surplus or deficiency in the Guaranteed Fund and for the purpose of valuing the Pension Fund the Actuary shall have no regard to the assets comprising the Investment Reserve, and when valuing those parts of the Pension Fund comprising the Bonus Augmentation Fund and the Guarantor's Fund he shall deem the liabilities of the Bonus Augmentation Fund and the Guarantor's Fund, to be equal in value to the corresponding assets of the respective funds.*

- (a) *If such review discloses that there is a surplus in the Guaranteed Fund and if there shall have been a transfer under paragraphs (4)(b) or (5)(iv) of this Clause from the Investment Reserve to the Guaranteed Fund made in any previous review which in the opinion of the Actuary has not been fully re-credited to the Investment Reserve the Present Value of such uncredited amount (as determined by the Actuary), shall be transferred to the Investment Reserve from the surplus. The Actuary shall then review and adjust the Investment Reserve as provided in Clause 18A(b).*

*The balance of the surplus (if any) following such transfer or the whole of the surplus if there shall have been no such transfer shall be divided by the Actuary into two equal shares on the basis that:—*

- (i) *one share shall be transferred to the Bonus Augmentation Fund and if there shall be liabilities in the Crystallised Augmentation Fund in respect of Guaranteed Crystallised Augmentations the share shall be applied by the Committee of Management to secure Crystallised Augmentations for Members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount as (to the extent as the application of funds will permit) reproduces identically the Guaranteed Crystallised Augmentations being received by such Members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent that they are so reproduced shall be extinguished. The share or the balance of the share (if any) may then be applied by the Committee of Management pursuant to sub-paragraph (d) in augmenting subject to Inland Revenue limits all or any of the pensions in payment or prospectively payable from the Scheme; and*
- (ii) *the other share shall be transferred to the Guarantor's Fund.*
- (b) (1) *If the review discloses that there is a deficiency in the Guaranteed Fund the Actuary shall review the Investment Reserve and adjust it as provided in items (iv) and (v) of Clause 18A(b) and if no Bonus Augmentations are being or have been paid from the Bonus Augmentation Fund the Actuary shall certify such deficiency to the Guarantor and the Committee of Management and the Committee of Management shall thereupon transfer an amount from the Investment Reserve to the Guaranteed Fund for the purpose of eliminating such deficiency. The Actuary shall then complete the review and adjustment of the Investment Reserve pursuant to Clause 18A(b). If the deficiency is not eliminated by such a transfer from the Investment Reserve the Actuary shall*

*certify the outstanding deficiency to the Guarantor and the Committee of Management.*

- (2) *If the review discloses that there is a deficiency in the Guaranteed Fund and Bonus Augmentations are being or have been paid from the Bonus Augmentation Fund the Actuary shall certify the deficiency to the Guarantor and the Committee of Management, shall review the Investment Reserve and adjust it as provided in items (iv) and (v) of Clause 18A(b) and the Actuary shall:—*
- (3) *determine the amounts which can be transferred from the Investment Reserve to eliminate such deficiency and the Actuary shall then complete the review and adjustment of the Investment Reserve pursuant to Clause 18A(b);*
- (4) *if the amounts referred to at (i) above which can be transferred from the Investment Reserve are not sufficient to eliminate the deficiency, determine the amounts which (when aggregated with transfers of equal value from the Guarantor's Fund) can be transferred to the Guaranteed Fund from the Bonus Augmentation Fund to eliminate the deficiency;*
- (5) *if amounts fall to be transferred to the Guaranteed Fund from the Bonus Augmentation Fund, certify to the Guarantor and the Committee of Management the balance in the Bonus Augmentation Fund prior to any such transfers and also certify the balance (if any) in the Guarantor's Fund after account has been taken of any outstanding liabilities to the Guarantor under paragraph (3)(i) and the amount (if any) which should be added to such balance in the Guarantor's Fund so that it equals the Bonus Augmentation Fund; and*
- (6) *determine the amount of any transfers to the Guarantor's Fund made following an earlier periodic review which are transferable from the Guarantor's Fund to the Guaranteed Fund equal to and in parallel with the amounts transferred from the Bonus Augmentation Fund to the Guaranteed Fund under (ii) above.*

*If the review discloses a deficiency in the Guaranteed Fund giving rise to a transfer from the Investment Reserve an amount shall be transferred to the Guaranteed Fund from the Investment Reserve for the purpose of eliminating such deficiency. If it appears that such transfer will not be sufficient to eliminate the deficiency without transfers from the Bonus Augmentation Fund and the Guarantor's Fund to the Guaranteed Fund the Actuary shall certify such deficiency to the Guarantor and the Committee of Management and the Committee of Management shall make transfers to the Guaranteed Fund from the Bonus Augmentation Fund and the Guarantor's Fund in accordance with the preceding provisions of this Clause and for the purposes of this Clause the assets of the Guarantor's Fund capable of being transferred to the Guaranteed Fund shall include the right of the Guarantor's Fund to receive future instalments of any amount payable by the Guarantor to that fund consisting of the balance to be added to the Guarantor's Fund as certified under (iii) of this sub-paragraph (b)(II).*

- (c) *On each such periodic review on or after the Guarantee Date the Actuary shall make a report to the Committee of Management and the Guarantor on the financial condition of the Pension Fund and the Guaranteed Fund specifying the determinations made by him under this paragraph.*
- (d) *If the report on a periodic review on or after the Guarantee Date discloses a surplus in the Guaranteed Fund and as a consequence a transfer is made to the Bonus Augmentation Fund the Committee of Management may as soon as reasonably practicable make recommendations to the Guarantor for the*

*application of the surplus so transferred and any such recommendations shall be accompanied by a statement from the Actuary as to the financial implications of the recommendations. Provided the statement from the Actuary confirms that in his view the recommendations can be supported from the monies which will be available in the Bonus Augmentation Fund the Committee of Management shall with the prior consent of the Guarantor implement the recommendations subject only to such modifications (if any) as shall be agreed between the Committee of Management and the Actuary with the consent of the Guarantor.*

- (e) If there is a deficiency in the Guaranteed Fund following a transfer to it of the Investment Reserve and the transfers to the Guaranteed Fund from the Bonus Augmentation Fund and the Guarantor's Fund under sub-paragraphs (b)(II)(ii) and (b)(II)(iv) and there remains a balance in the Guarantor's Fund such balance (or so much as is necessary to eliminate such deficiency) shall be transferred to the Guaranteed Fund with a view to eliminating such deficiency.*
- (f) If the Actuary determines in the case of a deficiency in the Guaranteed Fund that following a transfer to it of the Investment Reserve under sub-paragraph (b)(II) and transfers to it from the Bonus Augmentation Fund under sub-paragraph (b)(II) and the Guarantor's Fund under sub-paragraph (b)(II) and (if appropriate) sub-paragraph (e) the deficiency in the Guaranteed Fund will not be eliminated he shall forthwith certify the deficiency to the Guarantor and the Committee of Management.*

*(5) On each periodic review on or after the Guarantee Date (other than the first such review) the Actuary shall following his review of the Guaranteed Fund carry out a review of the Bonus Augmentation Fund having taken account of the transfers (if any) between the Bonus Augmentation Fund and the Guaranteed Fund to be made in accordance with sub-paragraphs (a) or (b) of paragraph (4) and the liabilities of the Bonus Augmentation Fund created following the application of the share transferred to it under sub-paragraph (a)(i) of paragraph (4) and shall make a report to the Committee of Management and the Guarantor on the financial condition of the Bonus Augmentation Fund. In carrying out such a review the Actuary shall determine whether or not at the review date there is a surplus or deficiency in the Bonus Augmentation Fund:—*

- (i) if there is a surplus in the Bonus Augmentation Fund and if there shall be liabilities in the Crystallised Augmentation Fund in respect of Guaranteed Crystallised Augmentations the surplus shall be applied by the Committee of Management to secure Crystallised Augmentations in the Bonus Augmentation Fund for members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount (to the extent the application of funds will permit) as reproduces identically the Guaranteed Crystallised Augmentations being received by such members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent they are so reproduced shall be extinguished. The Committee of Management may as soon as reasonably practicable make recommendations to the Guarantor for the application of the balance (if any) of the surplus and any such recommendations shall be accompanied by a statement from the Actuary as to the financial implications of the recommendations. Provided the statement from the Actuary confirms that in his view the recommendations can be supported from the surplus in the Bonus Augmentation Fund the Committee of Management shall with the prior consent of the Guarantor implement the recommendations subject only to such modifications (if any) as shall*

be agreed between the Committee of Management and the Actuary with the consent of the Guarantor;

- (ii) *if there is a deficiency in the Bonus Augmentation Fund the Actuary shall certify the deficiency to the Guarantor and the Committee of Management and shall then recalculate the liabilities of the Bonus Augmentation Fund on the basis that all Bonus Augmentations payable therefrom on terms which provide for the amount of the Bonus Augmentations in respect of a benefit in payment, to increase at any time or from time to time, shall cease to apply and the liabilities in respect of Bonus Augmentations shall be recalculated on the basis of the amounts being paid at the date of the periodic review of the Bonus Augmentation Fund not being increased and being subject to the provisions of (v) below; and such recalculated liabilities shall be referred to as "Crystallised Augmentations";*
- (iii) *if following the identification of the deficiency in the Bonus Augmentation Fund the Bonus Augmentation Fund is valued again as provided in (ii) above with the liabilities recalculated as Crystallised Augmentations, and the revaluation discloses that the value of the Bonus Augmentation Fund is greater than the value of the Crystallised Augmentations the Actuary shall certify as the "Bonus Augmentation Residue" the amount which is in excess of the amount needed to secure the Crystallised Augmentations and the Committee of Management may as soon as reasonably practicable make recommendations to the Guarantor for the application of the Bonus Augmentation Residue and any such recommendations shall be accompanied by a statement from the Actuary as to the financial implications of the recommendations. Provided the statement from the Actuary confirms that in his view the recommendations can be supported from the Bonus Augmentation Residue the Committee of Management shall with the prior consent of the Guarantor implement the recommendations subject only to such modifications (if any) as shall be agreed between the Committee of Management and the Actuary with the consent of the Guarantor. The Crystallised Augmentations shall remain a liability of the Bonus Augmentation Fund;*
- (iv) *if the Actuary shall certify that the assets of the Bonus Augmentation Fund are insufficient to secure the payment in full of the Crystallised Augmentations which remain a liability of the Bonus Augmentation Fund, liabilities in respect of that part of the Crystallised Augmentations which is not covered by assets in the Bonus Augmentation Fund shall be transferred to the Crystallised Augmentation Fund (where those liabilities shall be referred to as "Guaranteed Crystallised Augmentations") together with such amount from the Investment Reserve as is necessary to secure the payment of such Guaranteed Crystallised Augmentations from the Crystallised Augmentation Fund and if the amount so transferred to the Crystallised Augmentation Fund from the Investment Reserve is insufficient to secure the payment of the Guaranteed Crystallised Augmentations such additional amounts as are necessary to so secure the payment of the Guaranteed Crystallised Augmentations shall be transferred from the Guarantor's Fund to the Crystallised Augmentation Fund. If the total amount which can be transferred from the Guarantor's Fund is insufficient to secure the payment of the Guaranteed Crystallised Augmentations the Actuary shall certify such deficiency to the Guarantor and the Committee of Management. Guaranteed Crystallised Augmentations shall remain a liability of the Crystallised*

*Augmentation Fund until such time as the liability might be extinguished pursuant to paragraphs (4)(a)(i) or (5)(i) or pursuant to (v) below;*

- (v) *no provisions in Rule 26 relating to the periodic increase to benefits shall apply to Guaranteed Crystallised Augmentations payable from the Crystallised Augmentation Fund or Crystallised Augmentations payable from the Bonus Augmentation Fund but the amounts of Guaranteed Crystallised Augmentations and Crystallised Augmentations shall be reduced in each year by amounts equal to the relevant proportion of the amount of any increase to benefits payable from the Guaranteed Fund by operation of Rule 26 so that eventually the payment of those Guaranteed Crystallised Augmentations and Crystallised Augmentations which represent former increases to benefits, shall cease. For the purposes of this Clause the "relevant proportion" in relation to either the Crystallised Augmentations or the Guaranteed Crystallised Augmentations of a member shall be determined by comparing the amounts of whichever is appropriate of the Guaranteed Crystallised Augmentations or the Crystallised Augmentations of the member with the aggregate of the amounts of the Crystallised Augmentations and the Guaranteed Crystallised Augmentations of the member.*
- (vi) *for the purposes of any such review of the Bonus Augmentation Fund, liabilities in respect of Bonus Augmentations shall be valued using an actuarial method and assumptions selected by the Actuary after consultation with the Guarantor and the Committee of Management which are consistent with those used for the review of the Guaranteed Fund.*
- (vii) *any adjustments to the relationship between the assets and liabilities of the Guaranteed Fund which arise in the course of the review of the Bonus Augmentation Fund shall be carried forward to the next periodic review.*

(6) *The Actuary shall produce and make available to the Guarantor and the Committee of Management from time to time such certificates as to matters ascertained or determined by him for the purposes of this Clause and Clause 40 (including confirmation that any transfers required under this Clause or Clause 40 have been made) as the Guarantor or the Committee of Management may require in connection with the implementation of any arrangements entered into by the Trustee and the Guarantor pursuant to Clause 39A.*

## **ADMINISTRATION**

**19.** All benefits payable under the Rules *shall before the Guarantee Date* shall (subject to any deductions to be made therefrom in accordance with the Rules) be paid by the Principal Employer on behalf of the Committee of Management out of monies to be provided by the Scheme. *After the Guarantee Date such benefits shall (subject to any deductions to be made therefrom in accordance with the Rules) be paid by or on behalf of the Committee of Management in a manner approved by the Guarantor, and in particular all payments of Bonus Augmentations, Crystallised Augmentations and Guaranteed Crystallised Augmentations shall be separately identified and the terms on which they are payable shall be clearly communicated to the recipient.*

**20.—**(1) Save in respect of the collection of contributions *before the Closure Date* and the payment of benefits *before the Guarantee Date* (the administration whereof is vested in the Principal Employer) the management and administration of the Scheme shall be vested in the Committee of Management constituted as hereinafter provided.

(2) The costs of such management and administration by the Principal Employer and the Committee of Management insofar as incurred before 1st October 1975 *or on or after 31st*

December 1994 and all costs and expenses incurred by virtue of the exercise of the powers conferred by paragraph (2) of Clause 10 shall be borne by the Scheme.

(3) Subject to the provisions of sub-paragraph (b) or paragraph (2) of Clause 13, the costs of such management and administration by the Principal Employer and the Committee of Management insofar as incurred on or after 1st October 1975 and before 31st December 1994 shall be borne by the Principal Employer.

## COMMITTEE OF MANAGEMENT

**20A.** *With effect from the Guarantee Date the provisions of Clauses 21 to 36 inclusive shall cease to have effect.*

**21.**—(1) All members and alternate members of the Committee of Management appointed prior to 28th August 1987 shall cease to be members or alternate members on and from that date. On and from that date the Committee of Management shall (subject to the exercise of the powers conferred by this Clause and to the proviso to paragraph (4) of this Clause) consist of ten members. The Principal Employer shall have the power to appoint and remove five members and the Eligible Unions shall have the power to appoint and remove an aggregate number of five members. The Principal Employer and the Eligible Unions may in respect of each person appointed by them appoint and remove a person to be an alternate member of the Committee of Management and such alternate member shall in the absence of such member be entitled to attend and vote at all meetings of the Committee of Management on behalf of the member in respect of whom he is appointed and generally in the absence of such member to perform and exercise all the duties, powers and discretions of such absent member. An alternate member shall cease to be an alternate member if the member for whom he acts as an alternate ceases for any reason to be a member of the Committee of Management.

(2) Until the first Appointment Date the National Union of Mineworkers shall have the power to appoint and remove four members of the Committee of Management and the Union of Democratic Mineworkers shall have the power to appoint and remove one member of the Committee. Any member so appointed by an Eligible Union shall continue to hold office until the first Appointment Date unless prior to that date he ceases to be a member of the Committee of Management pursuant to the provisions of the Scheme.

(3) With effect on and from the first Appointment Date each Eligible Union shall have the power to appoint and remove the number of members determined in accordance with paragraph (4) of this Clause, subject to the aggregate number of members appointed by the Eligible Unions not exceeding five. On and from the first Appointment Date each member of the Committee of Management, whether appointed by the Principal Employer or an Eligible Union, shall cease to hold office on the next Appointment Date unless he is re-appointed or prior to that date he ceases to be a member pursuant to the provisions of the Scheme.

(4) The number of members of the Committee of Management to be appointed by each Eligible Union shall be determined according to the percentage which the number of Relevant Members of that Eligible Union at the Relevant Time bears to the aggregate number of Relevant Members of both Eligible Unions at the Relevant Time as follows:—

Percentage of aggregate number of Relevant Members	Number of Members of the Committee of Management
10% or more but less than 30%	1
30% or more but not more than 50%	2
More than 50% but not more than 70%	3
More than 70% but not more than 90%	4



Percentage of aggregate number of Relevant Members	Number of Members of the Committee of Management
More than 90%	5

Provided that if it is determined that both Eligible Unions have exactly 50% of the aggregate number of Relevant Members, the number of Members of the Committee of Management shall with effect on and from the next Appointment Date be reduced to eight and the references in paragraph (1) of this Clause to “ten” and “five” shall be deemed to be references to “eight” and “four” respectively until a different percentage shall be determined in accordance with the following provisions of this Clause.

(5) The Principal Employer shall not later than 31st December 1987 and thereafter subject to the provisions of paragraph (12) of this Clause at three-yearly intervals not later than 31st December in the relevant year notify each Eligible Union of the number of employees of the Principal Employer and Subsidiaries who were members of the Scheme and attributed as being contributing members of that Eligible Union at the Relevant Time in the Principal Employer’s Records. The Principal Employer shall also include in such notification the aggregate number of persons so attributed in respect of both Eligible Unions and the number of members of the Committee of Management which that Eligible Union has power to appoint pursuant to paragraph (4) of this Clause. Such notification shall include confirmation of the verification by the Auditors of the particulars contained therein.

(6) Within 10 days of receipt of a notification pursuant to paragraph (5) of this Clause an Eligible Union may give notice in writing to the Principal Employer that it intends to make submissions to the Auditors pursuant to this paragraph. Upon receipt of such notice the Principal Employer shall forthwith notify in writing the other Eligible Union which may within 10 days thereafter also give notice in writing to the Principal Employer that it intends to make submissions to the Auditors pursuant to this paragraph. An Eligible Union which has given such notice may not later than the 31st January next following the notification by the Principal Employer pursuant to paragraph (5) of this Clause submit to the Auditors the number of those persons who the Eligible Union considers were Relevant Members of the Eligible Union at the Relevant Time together with the full name and such indentifying details of each such person and such evidence of contributing union membership as the Auditors may from time to time consider necessary.

(7) If an Eligible Union makes submissions to the Auditors pursuant to paragraph (6) of this Clause it shall forthwith notify the Principal Employer in writing. The Principal Employer shall provide to the Auditors such further information from the Principal Employer’s Records as the Auditors may reasonably require.

(8) In respect of employees of the Principal Employer or Subsidiaries the Auditors shall determine by reference to the Principal Employer’s Records the number of persons included by an Eligible Union in any submissions pursuant to paragraph (6) of this Clause who were Relevant Members of the Relevant Time Provided that where any person included in the Eligible Union’s submissions was not attributed as a contributing member of that Eligible Union in the Principal Employer’s Records at the Relevant Time the Auditors shall—

- (a) satisfy themselves that the Principal Employer’s Records at the Relevant Time correctly recorded the union membership, if any, of such person in accordance with his latest instructions to his Employer, or failing that
- (b) satisfy themselves that such person was a contributing member of the Eligible Union at the Relevant Time or, failing that
- (c) endeavour to obtain from such person his written confirmation as to the Eligible Union, if any, of which he intended his Employer to treat him as being a contributing

member at the Relevant Time and until they receive such confirmation shall not count that person as a member of the Eligible Union in question.

(9) In respect of persons not employed by the Principal Employer or Subsidiaries, the Auditors shall take such steps as they deem appropriate to determine the number of persons included in any submissions by an Eligible Union pursuant to paragraph (6) of this Clause who were Relevant Members at the Relevant Time.

(10) If at any stage the Auditors are satisfied following any submissions by either or both of the Eligible Unions pursuant to paragraph (6) of this Clause that the number of members of the Committee of Management which either Eligible Union has the power to appoint in accordance with the notification by the Principal Employer under paragraph (5) of this Clause will not require change then such notification by the Principal Employer shall stand and the Auditors shall give notice to the Principal Employer and the Eligible Unions accordingly but if the Auditors become satisfied that the notification by the Principal Employer contains a discrepancy which materially affects the number of members of the Committee of Management which the Eligible Union has the right to appoint the Auditors shall prior to the 1st March next following the notification by the Principal Employer make recommendations to the Principal Employer as to the necessary revisions to such notification and the Principal Employer shall implement those recommendations by giving forthwith a revised notification to each Eligible Union accordingly.

(11) Following receipt of a notification or revised notification from the Principal Employer pursuant to the provisions of this Clause each Eligible Union shall have power to appoint with effect from the next Appointment Date such number of members of the Committee of Management as shall have been notified to it.

(12) In any year when a notification would not normally be given by the Principal Employer pursuant to paragraph (5) of this Clause an Eligible Union may give notice to the Principal Employer by not later than 30th September in that year it requires the Principal Employer to give a notification pursuant to paragraph (5) of this Clause in that year. In that event the Principal Employer shall by not later than 31st December in that year give notification to each Eligible Union pursuant to paragraph (5) of this Clause and the provisions of paragraphs (5) to (11) of this Clause shall apply.

(13) The costs of the Auditors in connection with this Clause (including costs incurred by the Principal Employer on behalf of the Auditors) shall be borne by the Pension Fund save that if an Eligible Union makes submissions or gives notice pursuant to paragraph (6) or (12) of this Clause which do not result in an increase in the number of members of the Committee of Management which that Eligible Union has power to appoint at the next Appointment Date the costs of the Auditors in connection with and arising from such submissions or notice (including costs incurred as aforesaid) shall be borne by such Eligible Union or, if more than one Eligible Union, by them in such proportions as the Auditors shall determine as appropriate.

**22.** The appointment and removal of any member of the Committee of Management and of any alternate member thereof shall be effected by an instrument in writing signed on behalf of the Principal Employer or an Appointing Union as the case may be and delivered to the Secretary. Whenever a vacancy occurs on the Committee of Management it shall be filled by a new appointment by the Principal Employer or an Appointing Union as the case may be.

**23.** Subject to the provisions of paragraphs (1) to (3) of Clause 21 any appointment of a member or alternate member of the Committee of Management may be expressed to be for a specified term or until the happening of some specified event and upon the expiration of such term or the happening of such event the member or alternate member so appointed shall cease to be a member or alternate member of the Committee of Management.

**24.** The office of a member or alternate member of the Committee of Management shall determine if he shall by instrument in writing delivered to the Secretary resign his office or if he shall become bankrupt or of unsound mind.

**25.** The Principal Employer shall appoint the Chairman of the Committee of Management from amongst the members of the Committee appointed by them and may prescribe the period for which he is to hold the office of Chairman.

**26.** The Principal Employer and the Appointed Unions acting jointly shall each appoint from amongst the members of the Committee appointed by them respectively a person to be a Joint Deputy Chairman of the Committee of Management and may prescribe the period for which he is to hold the office of Joint Deputy Chairman.

**27.** The Committee of Management may, subject to the provisions of the Scheme, meet together for the despatch of business, adjourn and otherwise regulate their proceedings as they think fit. The Chairman of the Committee or in his absence one of the Joint Deputy Chairmen (to be chosen if both are present by agreement between them or in default of such agreement by lot) shall take the Chair at every meeting of the Committee at which he is present. The continuing members of the Committee may act notwithstanding any vacancy in their body provided that the necessary quorum is available to enable them to act. The quorum necessary for the transaction of the business of the Committee of Management shall be one half of the total number of members thereof of whom one must be the Chairman or the Joint Deputy Chairman appointed by the Principal Employer.

**28.** Subject to the provisions of sub-paragraph (a) of paragraph (2) of Clause 37 differences arising at any meeting of the Committee of Management shall be determined by a majority of votes. In the case of an equality of votes the Chairman of the meeting shall not have a second or casting vote.

**29.** The Committee of Management shall cause proper minutes to be made of all meetings of the Committee of Management and of all business transacted at such meetings. Any such minute of any such meeting if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting shall be conclusive evidence without any further proof of the fact stated therein.

**29A.** A resolution in writing signed by such members of the Committee of Management as would constitute a quorum as specified in Clause 27 for a meeting of the Committee of Management shall be as valid and effectual as if it had been passed at a meeting of the Committee of Management duly convened and held. Such resolution in writing may consist of two or more documents in the like terms each signed by one or more of the said members of the Committee of Management.

**30.** There shall be joint Secretaries to act as secretaries of both the Committee of Management and the Rules Amendment Committee. The Principal Employer and each Appointing Union shall have the power to appoint and remove one such joint Secretary. If an Eligible Union ceases to be an Appointing Union the joint Secretary appointed by it shall immediately cease to hold office. If there shall for the time being be a vacancy in the office of the joint Secretaries the surviving or continuing joint Secretary or joint Secretaries shall have full power to act and the Committee of Management may at any time and from time to time nominate any person to perform any of the duties of the Joint Secretaries of the Committee of Management and the Rules Amendment Committee in any case in which it is impracticable or inconvenient for the joint Secretaries or the surviving or continuing joint Secretary or joint Secretaries to act. The Committee of Management may from time to time with the approval of the Principal Employer appoint such other officers and servants as may be requisite for their administration of the Scheme at such remuneration and upon such conditions as the Committee of Management, with the concurrence of the Principal Employer shall deem proper.

The remuneration of the joint Secretaries shall also be such as the Committee of Management shall from time to time determine.

**31.** The Committee of Management shall have power to appoint and to delegate all or any of their powers (other than the power to make regulations) to sub-committees consisting of one or more persons being members or alternate members of their own body or of a Local Committee or officers or servants of the Committee of Management or other persons as the Committee of Management shall think fit and may make any regulations for the conduct of the proceedings of such sub-committees. The meeting and proceedings of every such sub-committee consisting of two or more persons shall be regulated by the provisions of the Scheme relating to the meetings and proceedings of the Committee of Management insofar as the same may be applicable and are not superseded by any regulations made under this Clause by the Committee of Management.

**32.** The Committee of Management may delegate all or any of their powers and discretions to the Local Committees constituted as hereinafter provided or to any one or more of them.

**33.** The Committee of Management shall establish such Local Committees as they shall consider requisite to exercise functions in relation to such members or persons entitled to benefit as they shall specify to consist of such persons as the Committee of Management shall determine or approve, so however that each Local Committee shall be so composed that one half of the members thereof are representatives of the Principal Employer or of Small Mine Licensees and the other half thereof are representatives of one or both of the Eligible Unions. The Chairman of each Local Committee shall be a representative of the Principal Employer. Each Local Committee shall subject to the approval of the Committee of Management make regulations for the conduct of their own proceedings and in default of and subject to any such regulations their proceedings shall with the necessary modifications be governed by the provisions of the Scheme relating to proceedings of the Committee of Management.

**34.—(1)** The Committee of Management may make and from time to time revoke or vary regulations covering the procedure of the Local Committees and of the Committee of Management in the conduct of references to them respectively and of appeals from the Local Committees to the Committee of Management under the provisions contained in the Rules in that behalf and as to the evidence on which they may act in determining questions and disputes submitted to them.

(2) The Committee of Management may, at their discretion, or at the request of any Local Committee, appoint one or more representatives to be present at any meeting of that Committee. Such representative or representatives of the Committee of Management shall not be entitled to vote at the meeting of the Local Committee, but shall be entitled to take part in the discussion and to require the Local Committee to refer any matter under discussion to the Committee of Management for a decision.

(3) Each Local Committee shall have power whenever they think fit to refer any matter to the Committee of Management for a final decision.

**35.** The Committee of Management may make and from time to time revoke or vary regulations for the general administration of the Scheme by the Committee of Management not being inconsistent with the provisions of the Scheme or of the Rules.

**36.** Each Local Committee shall have the power to make and from time to time revoke or vary regulations for the local administration of the scheme not being inconsistent with the provisions of the Scheme or of the Rules or of any regulations made by the Committee of Management under the last preceding Clause and for the time being in force.

**36A.** *Each Local Committee shall be dissolved as soon as practicable after and with effect from the Guarantee Date and from that date all references in the Scheme to Local Committees shall be disregarded.*

- (i) *The Committee of Management may delegate any of the powers referred to in Clause 5A(5)(i) to any sub-committee consisting (subject to the provisions of Clause 36D and the Articles) of such member or members of its body, with or without other persons not being members of its body, as it shall think fit.*
- (ii) *Any sub-committee so appointed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Committee of Management. The meetings and proceedings of any sub-committee consisting of two or more members shall, subject to the provisions of the Articles, be governed by such of those provisions as relate to the meetings and proceedings of the Committee of Management so far as the same may be applicable and are not superseded by any regulation made for such sub-committee under this Clause.*

**36C.** *On and after the Guarantee Date the Committee of Management shall from time to time with the consent of the Guarantor appoint a secretary and such other persons as may be requisite to administer the Scheme and may at any time remove any person or persons appointed under this Clause. The remuneration of the secretary and any other persons so appointed to perform services in connection with the Scheme shall be agreed by the Guarantor and the Committee of Management and be paid and borne in the same manner as the costs referred to in whichever is applicable of Clause 13(2)(a) and Clause 7(b).*

**36D.** *The Secretary appointed under Clause 36C shall—*

- (i) *keep the records of the membership of the Scheme together with books and papers relating to the Scheme and the business thereof;*
- (ii) *report to the Committee of Management, in such manner as the Committee of Management may from time to time direct, on the costs of managing and administering the Scheme, applications for allowances or payments under the Scheme, and other matters to be brought under the consideration of the Committee of management;*
- (iii) *be a member, in so far as the Committee of Management so agree, of any sub-committee to which powers are delegated under Clause 36B but shall not be entitled to vote at meetings of such sub-committees; and*
- (iv) *perform such other duties in connection with the Scheme as the Committee of Management may from time to time direct.*

**36E.—**(1) *Without prejudice to the provisions of or to any powers conferred by section 23 of the Trustee Act 1925 or Clauses 5A, 8, 9, 10 and 36B, the Committee of Management may delegate to any or more persons or bodies of persons (each of whom or which is in this Clause called “the delegate”) in any part of the world, whether nominated directly by the Committee of Management or nominated by any other person or body of persons authorised by them to do so (and including, for the avoidance of doubt, any nominee or custodian or other trustee appointed under Clause 8, any person or body of persons with whom or which any agreement is or has been entered into under Clause 10 or any sub-committee appointed under Clause 36B) the exercise of all or any of the powers referred to in Clause 5A(5)(ii), for such period and on and subject to such terms, limitations and conditions, if any, as the Committee of Management may think fit.*

(2) *The terms and conditions referred to in paragraph (1) of this Clause may, without prejudice to the generality of that paragraph and if and insofar as the Committee of Management may think fit, include terms and conditions:—*

- (a) *authorising the delegate, or any other person or body of persons (whether or not a direct sub-delegate of the delegate but in this Clause called “a sub-delegate”) to whom a sub-delegation or further delegation has been made by virtue of any such authorisation, to exercise in relation to the powers delegated to him or it the same or any of the same powers as are conferred on the Committee of Management by this Clause; and*
- (b) *providing in such manner as the Committee of Management may think fit for the protection and convenience of persons or bodies of persons dealing with the delegate or a sub-delegate.*

(3) *The Committee of Management may at any time cancel or vary any delegation made under paragraph (1) of this Clause or any such sub-delegation or further delegation as is referred to in paragraph (2)(a), but no person or body of persons dealing with the delegate or a sub-delegate in good faith and without notice of the cancellation or variation shall be affected thereby.*

## **REVIEW AND AMENDMENT OF THE SCHEME**

**37.—**(1) Subject to the provisions of paragraph (2) of this Clause, the Principal Employer (before the Guarantee Date) or the Guarantor after prior consultation with the Committee of Management on and after the Guarantee Date may from time to time and at any time (and in particular, but without prejudice to the generality hereof, if any report of the Actuary shall have disclosed a surplus or a deficiency in the Scheme) amend the Scheme or the Rules by the alteration, deletion or addition of any provisions, but no alteration, deletion or addition shall be made which would have the effect of:—

- (a) altering the main purpose of the Scheme from that of providing pensions for members on retirement;
- (b) making any of the moneys of the Scheme payable to the Principal Employer or to any other Employer;
- (c) reducing the amounts of any benefits already earned or accrued *apart from Bonus Augmentations other than Guaranteed Crystallised Augmentations*;
- (d) *re-opening the Scheme on or after the Closure Date; and*
- (e) *amending Clause 5A(3), the proviso to Clause 5A(4), Clause 39A(ii) and the proviso to Clause 40(3).*

(2) No amendment shall be made to the Scheme or Rules unless (*in the case only of an amendment proposed before the Guarantee Date*) such amendment shall have been proposed by the Principal Employer and approved:—

- (a) in the case of an amendment to Clause 21, this Clause or Clause 38 by a resolution of the Rules Amendment Committee passed unanimously at a meeting of that Committee attended by all its members or their alternates; and
- (b) in any other case, by resolution passed by the votes of a majority of the members for the time being of the Rules Amendment Committee or their alternates.

(3) *Amendments to be made by the Guarantor under this Clause shall be effected by notice in writing addressed to the Committee of Management and signed on behalf of the Guarantor and such amendments shall have effect from the date specified in such notice.*

(4) *After the Guarantee Date the powers of alteration, deletion and addition granted under paragraph (1) of this Clause shall not be exercised (whether in relation to Clause 18B, Clause*

*40 or otherwise) in such a way as to render ineffective, in whole or in part, such arrangements as have been entered into by the Committee of Management and the Guarantor pursuant to Clause 39A and are for the time being in force.*

**38.**—(1) *Subject to paragraph (8) of this Clause a Rules Amendment Committee shall be established to consider proposed amendments to the Scheme or Rules and shall (subject to the exercise of the powers conferred by this Clause) consist of the same number of members as the Committee of Management or such lesser number as may be agreed in accordance with paragraph (4) of this Clause. The Principal Employer shall have the power to appoint and remove one half of the members and the Appointing Unions shall have the power to appoint and remove one half of the members.*

(2) The Principal Employer and each Appointing Union may in respect of each person appointed by them appoint and remove a person as an alternate member of the Rules Amendment Committee and such alternate member shall in the absence of such member be entitled to attend and vote at all meetings of the Rules Amendment Committee on behalf of the member in respect of whom he is appointed and generally in the absence of such member to perform and exercise all the duties, powers and discretions of such absent member.

(3) Subject to paragraph (4) of this Clause, until the first Appointment Date the National Union of Mineworkers shall have the power to appoint and remove four members of the Rules Amendment Committee and the Union of Democratic Mineworkers shall have the power to appoint and remove one member of the Committee. On and from the first Appointment Date *and until the Guarantee Date* each Appointing Union shall have the power to appoint and remove one member or, if more than one, a number of members equal to the number of members of the Committee of Management which the Appointing Union for the time being has power to appoint.

(4) *Until the Guarantee Date* the Principal Employer and the Appointing Unions may agree that the Rules Amendment Committee shall consist of a number of members which is less than the number of members of the Committee of Management, the number of members accordingly to be appointed by the Principal Employer and each Appointing Union being that agreed by the Principal Employer and the Appointing Unions.

(5) The quorum necessary for the transaction of the business of the Rules Amendment Committee shall be that number which is one more than half of the number of members of that Committee, of whom one must be the Chairman or the Joint Deputy Chairman appointed by the Principal Employer.

(6) A resolution in writing, not being a resolution to amend Clause 21, Clause 37 or this Clause, which has been signed by a majority of the members of the Rules Amendment Committee shall be as valid and effectual as if it had been passed at a meeting of the Rules Amendment Committee duly convened and held. Such resolution in writing may consist of two or more documents in the like terms each signed by one or more of the said members of the Rules Amendment Committee.

(7) Subject to the foregoing provisions of this Clause, the following provisions of the Scheme (which concern the procedure for the appointment and continuance in office of members and the regulation of meetings and proceedings) shall apply to the Rules Amendment Committee as they apply to the Committee of Management, namely, Clauses 22, 23, 24, 25 and 26, Clause 27 except for the last sentence and Clauses 28 and 29.

(8) *The Rules Amendment Committee shall be dissolved with effect from the Guarantee Date and from that date all references in the Scheme to the Rules Amendment Committee shall be disregarded.*

## MISCELLANEOUS

39.—(1) Save to the extent that they are covered by external insurance the persons protected by this Clause are

- (a) *the Trustee*, the members and alternate members of the Committee of Management, of the Rules Amendment Committee, of every Local Committee and of every sub-committee of the Committee of Management;
- (b) each of the Joint Secretaries and the Pensions Officer *and with effect from the Guarantee Date the Secretary*;
- (c) *until the Closure Date only but without prejudice to liabilities incurred prior to that date* the Principal Employer, CIN Management Limited and its wholly owned subsidiaries and any officer or employee of any of them; and
- (d) any other person to whom the Committee of Management *and with effect from the Guarantee Date the Committee of Management with the consent of the Guarantor* shall have determined under paragraph (4) of this Clause that this Clause shall apply (but subject to the terms of any determination so made).

References to members and alternate members of Committees, office holders, officers, employees and other persons in (a), (b), (c) and (d) above shall for the purposes of this Clause include individuals who were formerly members, alternate members, office-holders, officers, employees and other persons as the case may be.

(2) Unless and to the extent that he is otherwise covered by external insurance, every person protected by this Clause shall together with his estate and effects be indemnified and kept at all times indemnified out of the moneys of the Scheme against all actions proceedings claims demands costs charges losses damages expenses and liabilities of any nature whatsoever and however arising which he or his estate or effects shall or may incur or sustain by reason of any act done or omitted in relation to the affairs of the Scheme except as a result of a wilful or reckless act or omission by that person known by him to be a breach of trust or breach of duty in relation to the Scheme or done or omitted by him recklessly as to whether or not it is such a breach of trust or duty.

(3) No person protected by this Clause shall be accountable or answerable for the acts receipts neglects or defaults of any other person acting in relation to the Scheme or by joining in any receipt for the sake of conformity or for the acts receipts neglects or defaults of any bankers or other persons with whom any moneys investments or effects belonging to the Scheme shall or may be lodged or deposited for safe custody or for the insufficiency or deficiency of any security or investment upon which any moneys of the Scheme shall or may be placed out or invested or for any loss misfortune or damage which the Scheme or any beneficiary or other person claiming under the Scheme shall or may sustain except as a result of a wilful or reckless act or omission by the protected person known by him to be a breach of trust or breach of duty in relation to the Scheme or done or omitted by him recklessly as to whether or not it is such a breach of trust or duty.

(4) The Committee of Management may in their discretion if they consider such action in the interests of the Scheme determine in relation to any person who is engaged to perform any functions or services for the purposes of the Scheme and is not otherwise protected by this Clause that such person shall, to such extent and on such terms as the Committee of Management may think fit, be afforded the benefit of indemnity and exoneration under this Clause.

- (i) *The Trustee shall have power to enter into such arrangements with the Secretary of State as the Secretary of State is authorised to enter into in accordance with paragraph 2(9) of Schedule 5 to the 1994 Act.*



- (ii) *The terms of any arrangements made with the Secretary of State pursuant to this Clause may only be varied by the Trustee on a resolution supported by not less than seven members of the Committee of Management.*

**40.—**(1) This Clause shall *apply with effect from the Guarantee Date* and override any other provisions of the Scheme or Rules which are inconsistent with it.

(2) The words and expressions used in this Clause shall have the same meanings as in the Pensions Act.

(3) The Scheme shall continue for such period as is allowed by law *or until such earlier date as the Trustee and the Guarantor shall determine provided that any resolution of the Committee of Management in this respect shall not be valid unless supported by at least 7 members thereof. The date on which the Scheme determines by operation of law or the effective date of the determination referred to above shall be referred to as "the Termination Date"*. Subject as hereinafter provided upon the discontinuance of the Scheme (*which for the avoidance of doubt shall not be caused with effect from the Closure Date by the closure of the Scheme or by the discontinuance of contributions to the Scheme*), the Pension Fund shall be dealt with for the benefit of those members and Dependants entitled to benefits under the Scheme by realisation of the Pension Fund at such time or times as the Committee of Management *Trustee* shall think fit in the light of prevailing investment conditions and application of the net proceeds thereof in accordance with the following paragraphs of this Clause. *The Trustee shall cause the Actuary to carry out a valuation of the Pension Fund as at the Termination Date (using an actuarial method and assumptions selected by him after consultation with the Trustee and the Guarantor) to assess (inter alia) whether at the Termination Date the assets of the Guaranteed Fund are likely to be sufficient to secure the Guaranteed Liabilities as defined in paragraph (4) (d) of this Clause. For the purposes of this Clause on the discontinuance of the Scheme the Investment Reserve shall not form part of the Pension Fund.* Notwithstanding the foregoing provisions the Committee of Management *Trustee* shall have power on giving notice to each of the members to transfer, with the consent of the members, the Pension Fund *Guaranteed Fund and the Bonus Augmentation Fund* (or the appropriate part of parts thereof) in such amounts and on such terms as the Actuary may certify as equitable, having regard to the rights to and expectations of benefits of those members for whom provision is made in this way, to one or more new or existing retirement benefits schemes approved by the Commissioners of Inland Revenue. *For the avoidance of doubt the powers of the Trustee on the discontinuance of the Scheme shall include the power to make use of, vary or novate any arrangements entered into by the Trustee with the Secretary of State pursuant to Clause 39A or to enter into any additional or supplemental arrangements.*

(4) On the discontinuance of the Scheme, the Committee of Management *Trustee* shall be entitled to reserve out of the Pension Fund *Guaranteed Fund* such amount as they consider may be necessary to meet all proper costs, charges and expenses of and incidental to the realisation and/or transfer of the Pension Fund and the winding-up of the Scheme and all taxes and duties for which the Committee of Management *Trustee* may be accountable under the Scheme and, subject thereto and subject in all cases to the Inland Revenue Limits, the balance of the Pension Fund *Guaranteed Fund* shall be applied for the benefit of those members and other persons whose rights to and expectations of benefits have not been secured by a transfer to any other retirement benefit scheme pursuant to paragraph (3) of this Clause and (in the case of a member who was paying Normal Contributions to the Scheme on the *Termination Date* date of discontinuance *if the Termination Date is before the Closure Date*) on the basis that he ceased to pay Normal Contributions on that date:—

- (a) in securing *subject to the provisions of sub-paragraph (d) of this paragraph ( in equal priority as between themselves)* to any other liabilities of the Scheme liabilities in respect of:—

- (i) subject to the Inland Revenue Limits, such additional pensions and other benefits provided from the AVC Scheme pursuant to Rule 5 as the Committee of Management shall determine to be appropriate in relation to any additional voluntary contributions made pursuant to Rule 5;
- (ii) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (iii) any such benefits as are excluded by section 33(5) of the Pensions Act from earners' guaranteed minimum pensions;
- (iv) pensions and other benefits in respect of which entitlement to payment has already arisen other than *Bonus Augmentations, Crystallised Augmentations which are a liability of the Bonus Augmentation Fund* and those included in sub-paragraphs (a)(i), (a)(ii), and (a)(iii) and (a)(ix) of this paragraph;
- (v) state scheme premiums;
- (vi) where an earner has attained Pensionable Age, pensions and other benefits *other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*, insofar as they do not fall within the foregoing provisions of this paragraph (a) to which the earner will be entitled on ceasing to be in employment; and (b) to which the earner's Widow or any Dependant of the earner will be entitled on the death of the earner;
- (vii) where an earner has retired before Pensionable Age with an immediate pension but at the time of winding-up has not attained Normal Retiring Age, pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*), insofar as they do not fall within the foregoing provisions of this paragraph, to which the earner's Widow or any Dependents of the earner will be entitled on the death of the earner; and
- (viii) benefits attributable to any period of service before 6th April 1978; and
- (ix) *benefits which are Guaranteed Crystallised Augmentations as at the day preceding the Termination Date*

Provided that if the assets of the Scheme are not sufficient to meet in full the liabilities of the Scheme as aforesaid, such assets shall be applied first to meet the liabilities specified in sub-paragraph (a)(i) of this paragraph, second to meet the liabilities specified in sub-paragraphs (a)(ii) to (a)(iv) of this paragraph and shall be applied to meet the liabilities specified in sub-paragraphs (a)(v) to (a)(vii) of this paragraph before being applied to meet the liabilities specified in sub-paragraph (a)(viii) of this paragraph;

- (b) subject to sub-paragraphs (a) and (d) of this paragraph, in securing (in equal priority as between themselves) liabilities in respect of:—
  - (i) entitlement to pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*) of those members (*not being members referred to in sub-paragraph (b) (ii) of this paragraph*) who had ceased to pay Normal Contributions on or before the *Termination Date* date of discontinuance and who had not attained at that date Pensionable Age;
  - (ii) entitlement to a refund of contributions pursuant to paragraph (5) of Rule 15 for those members who are *were* paying Normal Contributions at the date of discontinuance *immediately before the Closure Date* and, on the *Termination Date* date of discontinuance, had less than two years of Qualifying Service; and

- (iii) entitlement to pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*) of Dependants whose benefits are expectant or contingent on the death of any such member as is referred to in sub-paragraph (b)(i) of this paragraph;
- (c) *subject thereto in increasing annually after the Termination Date the amount of each of the annuities (whether payable or prospectively payable) pursuant to sub-paragraphs (a)(iv), (a)(vi), (a)(vii) and sub-paragraphs (b)(i) and (b)(iii) of paragraph (4) by indexation in line with the increase in the Index of Retail Prices, calculated by applying (to the extent possible) the provisions of Rule 26;*
- (d) *If the Actuary certifies that the application of the Guaranteed Fund to the liabilities referred to in sub-paragraphs (a), (b) and (c) above (“the Guaranteed Liabilities”) is insufficient to meet the Guaranteed Liabilities there shall be transferred to the Guaranteed Fund from the Investment Reserve assets to eliminate the deficiency and if the Investment Reserve does not eliminate the deficiency there shall be transferred from the Guarantor’s Fund and the Bonus Augmentation Fund, assets in equal measure until the Guaranteed Fund is sufficient to meet the Guaranteed Liabilities or the Bonus Augmentation Fund is exhausted, whichever first occurs. If pursuant to this paragraph an amount is transferable from the Guarantor’s Fund to the Guaranteed Fund the Actuary shall certify to the Guarantor and the Committee of Management the amount which should be transferred to the Guarantor’s Fund to ensure the Guarantor’s Fund equals the Bonus Augmentation Fund.*
- (e) *After any transfers to the Guaranteed Fund from the Bonus Augmentation Fund under (d) above have been completed the Actuary shall determine and compare the value of the assets of the Bonus Augmentation Fund with the value of the liabilities of the Bonus Augmentation Fund but with such liabilities which are in the form of Bonus Augmentations recalculated as Crystallised Augmentations in the manner provided in Clause 18B(5)(ii) and if the value of the assets of the Bonus Augmentation Fund exceeds the value of the Crystallised Augmentations, the Committee of Management may apply such excess in the same manner as is provided in Clause 18B(5)(iii).*
- (f) *If the value of the assets of the Bonus Augmentation Fund is less than the value of the liabilities in respect of Crystallised Augmentations, the Actuary shall certify to the Guarantor and the Committee of Management the amount of such deficiency in the Bonus Augmentation Fund.*
- (g) *If following the transfers of assets to the Guaranteed Fund from the Guarantor’s Fund and the Bonus Augmentation Fund in accordance with sub-paragraph (d) above the assets of the Guaranteed Fund are insufficient to secure the Guaranteed Liabilities the Actuary shall certify such deficiency to the Guarantor and the Committee of Management.*
- (h) *If following the application of the Guaranteed Fund, the Guaranteed Liabilities are fully secured and a balance of assets remains in the Guaranteed Fund and if there shall have been a transfer under Clause 18B(4)(b) from the Investment Reserve to the Guaranteed Fund made in any previous actuarial review of the Pension Fund which in the opinion of the Actuary has not been fully credited the Present Value of such uncredited amount (as determined by the Actuary) shall be transferred to the Investment Reserve from the Guaranteed Fund. The balance of the Guaranteed Fund (if any) following such transfer to the Investment Reserve or the whole of the balance if there shall have been no such transfer shall be divided by the Actuary into two equal shares on the basis that one share shall be transferred to the Bonus*

*Augmentation Fund and the other share shall be transferred to the Guarantor's Fund and thereupon the Bonus Augmentation Fund shall be applied in accordance with paragraphs (5) and (6) of this clause.*

- (a) The amount allocated (after consultation with the Actuary) to or in respect of each member and Dependant pursuant to paragraph (4) shall be applied (in so far as is practicable) either in the payment of state scheme premiums or in the purchase of a non-assignable and (save as herein otherwise provided) non-commutable annuity from such Recognised Insurance Company as the Committee of Management in each case may determine.
- (b) In the case of existing pensioners and members who have reached Pensionable Age but remain in Eligible Employment such annuity shall be an immediate annuity and in the case of prospective pensioners such annuity shall be a deferred annuity commencing not earlier than Pensionable Age.
- (c) Any such annuity shall be commutable so as to provide a cash lump sum on such terms as may be approved by the Commissioners of the Inland Revenue.
- (d) The obligation to provide annuities to secure Children's benefits pursuant to Rule 20 shall be limited to Children born prior to the date of discontinuance *Termination Date* or within twelve months of such date.

*Provided that if no Recognised Insurance Company (either alone or in conjunction with any other Recognised Insurance Company) is willing to offer terms for annuities which correspond to the terms on which benefits which are Guaranteed Crystallised Augmentations are paid or payable or if the terms on which such benefits can be secured are not such that the Committee of Management could reasonably accept then the Committee of Management shall have a power at its discretion and with the consent of the Guarantor to vary the terms or the amount of the Guaranteed Crystallised Augmentations but not so as in the opinion of the Committee of Management (acting on the advice of the Actuary) would prejudice the value of such benefits to any material extent.*

(6) If, after application of the Pension Fund *Guaranteed Fund* pursuant to paragraph (4) (h) of this Clause, there shall remain any surplus thereof *a balance in the Bonus Augmentation Fund over what is needed to secure the Bonus Augmentations and Crystallised Augmentations* the Committee of Management shall *secure Crystallised Augmentations for members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount as (to the extent the application of funds will permit) reproduces identically any Guaranteed Crystallised Augmentations being received by such members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent that they are so reproduced shall be extinguished. The Committee of Management shall then* (in so far as is practicable and subject in all cases to the Inland Revenue Limits) apply such surplus *remaining balance (if any) in the Bonus Augmentation Fund* so far as they have not done so, in purchasing policies of term assurance and in making provision for increases in the benefits required to be secured as aforesaid (other than in respect of additional voluntary contributions made under Rule 5 and benefits purchased therefrom) in the following sequence of priorities:—

- (a) in purchasing policies of term assurance providing for the payment of the capital sums on death in the circumstances specified in paragraph (7) of Rule 16;
- (b) in increasing annually after the date of discontinuance of the Scheme *Termination Date* the amount of each of the annuities (whether payable or prospectively payable) pursuant to sub-paragraph (a)(iv), (a)(vi), (a)(vii), (a)(viii) (a)(ix) of this Rule and sub-paragraphs (b)(i) and (b)(iii) of paragraph (4) by indexation in line with the increase in the Index of Retail Prices, calculated by applying (to the extent possible)

- the provisions of Rule 26 but limited in any event to 5 per cent, or Rule 26B as appropriate;
- (c) in increasing annually after the date of discontinuance of the Scheme the amount of certain of the annuities specified in sub-paragraph (b) of this paragraph by indexation in line with the increase in the Index of Retail Prices calculated by applying (to the extent possible) the provisions of Rule 26 to those pensions specified in sub-paragraphs (a) and (c) of paragraph (2) of Rule 26; insofar as it may, in any year, exceed 5 per cent;
  - (d) in increasing annually after the date of discontinuance of the Scheme *Termination Date* the annuities secured for members who are paying contributions at the time of discontinuance *Termination Date* and for whom no transfer is made pursuant to paragraph (3) of this Rule *Clause* by indexation in line with the increase in the Index of Retail Prices calculated by applying (to the extent possible) the provisions of Rule 26 insofar as it may, in any year, exceed 5 per cent to the extent that this has not already been provided pursuant to sub-paragraph (b) of this paragraph of this Rule *Clause*; and
  - (e) in making such other increases (whether initially or by annual indexation as aforesaid or by both such means) in all or any of the annuities (whether payable or prospectively payable) required to be secured pursuant to paragraphs (4) and (5) of this Clause and the term assurances required to be purchased pursuant to sub-paragraph (a) of this paragraph as the Committee of Management (after consultation with the Actuary) may consider fair as between the respective persons for whom the same are to be secured; and
  - (f) subject to the approval of the Board of Inland Revenue, in the payment to the Employers (after deduction of any tax due thereon) of the balance (if any) of the Pension Fund which may remain in such proportions as the Committee of Management (acting with the advice of the Actuary) shall consider to be just and equitable and in such event the Employers may retain the whole or any part of the balance of the Pension Fund so paid to them

Provided that

- (1) if no Recognised Insurance Company (either alone or in conjunction with any other Recognised Insurance Company) is willing to offer terms for annuities which increase in accordance with the provisions of sub-paragraphs (b), or (d) of this paragraph which the Committee of Management (after consultation with the Actuary) in their discretion are willing to accept, then the Committee of Management shall have a discretion *with the consent of the Guarantor* to vary the provisions of sub-paragraphs (b), and (d) of this paragraph upon such terms and subject to such conditions as may be agreed between the Committee of Management (after consultation with the Actuary) and the Recognised Insurance Company.
- (2) *if no Recognised Insurance Company (either alone or in conjunction with any other Recognised Insurance Company) is willing to offer terms for annuities which correspond to the terms on which benefits which are Crystallised Augmentations are paid or payable or if the terms on which such benefits can be secured are not such that the Committee of Management could reasonably accept then the Committee of Management shall have a power at its discretion to vary with the consent of the Guarantor the terms or the amount of the Crystallised Augmentations but not so as in the opinion of the Committee of Management (acting on the advice of the Actuary) would prejudice the value of such benefits to any material extent.*

(7) Where an application of a balance of the Guaranteed Fund is made pursuant to paragraph (4)(h) of this Clause and a payment out of that balance into the Bonus Augmentation Fund is applied under paragraph (6) of this Clause to secure Crystallised Augmentations which replace existing Guaranteed Crystallised Augmentations, liabilities within the Guaranteed Fund in respect of those Guaranteed Crystallised Augmentations shall be extinguished, and the Committee of Management shall direct the Actuary to recalculate the Guaranteed Liabilities and determine what fresh balance arises in the Guaranteed Fund which will be dealt with under paragraph (4)(h) of this Clause to be divided by the Actuary into two equal shares and one share being transferred to the Bonus Augmentation Fund to be applied in accordance with paragraphs (5) and (6) of this Clause. If that application results in a further reduction in the liabilities of the Guaranteed Fund the Actuary shall again recalculate the Guaranteed Liabilities and shall continue the process described in this paragraph (7) until the surplus is exhausted or no further Guaranteed Crystallised Augmentations remain, whichever first occurs.

(8) Subject to the foregoing provisions of this Clause and subject to the approval of the Commissioners of Inland Revenue, the balance (if any) of the Bonus Augmentation Fund which may remain shall (after deduction of any tax due thereon) be paid to the Employers in such proportions as the Trustee (acting with the advice of the Actuary) shall consider to be just and equitable and in such event the Employers may retain the whole or any part of the balance so paid to them. The balance of the Guarantor's Fund and the Investment Reserve shall be paid (after deduction of any tax due thereon) to the Guarantor.

## INTERPRETATION

41.—(1) The following provisions of this Clause shall have effect in the construction of the Scheme, the Rules and the Schedules to the Rules.

(2) The following words and expressions shall, unless the subject, the context Rule 9A otherwise require, have the meanings respectively assigned to them, that is to say—

“**Accounting Year of the Principal Employer**” means any period from midnight of the last Saturday in March in one calendar year to midnight of the last Saturday in March in the next following calendar year.

“**Actuarial Value**” means actuarial value as determined by or on behalf of the Actuary and

“**Actuarially Equivalent**” has a corresponding meaning.

“**the Actuary**” means the *Government Actuary*, being a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland, appointed by the Committee of Management to perform the actuarial duties required under the Scheme and the Rules.

“**Appointing Union**” means an Eligible Union which for the time being has the power to appoint members of the Committee of Management by virtue of the provisions of Clause 21 of the Scheme.

“**Appointment Date**” means 1st April in any year and the first Appointment Date shall be 1st April 1988.

“**Associated Undertaking**” means an undertaking (except, with effect from 1st October 1977 a Subsidiary) certified by the Principal Employer *before the Closure Date* to be associated with them, for as long as such certification remains in force and unrevoked *and all such certificates shall be revoked at the Closure Date*.

“**the Auditors**” means the auditors appointed under Clause 14A.

“**Bonus Augmentations**” means benefits details of which are set out in the Ninth Schedule to the Rules paid from the Bonus Augmentation Fund which derive from

a recommendation of the Committee of Management under Clause 18B as to the application of a share of surplus determined on a periodic review under Clause 18B on or after the Guarantee Date.

**“Bonus Augmentation Fund”** means the Bonus Augmentation Fund referred to in Clause 18B.

**“Branch Secretary”** means a whole-time secretary of any Branch of the Eligible Unions.

**“Certified Employment”** means an insurable employment within the meaning of the Industrial Injuries Act which was immediately before the termination of the Industrial Injuries Scheme certified for the purposes of that Scheme by the Principal Employer and the Union to be within the coal mining industry or, if the Principal Employer and the Union could not agree, was so determined by a decision then in force and made under Article 23 of that Scheme or any provisions directly or indirectly replaced by it.

**“Child”** in relation to a member or other person includes his posthumous child, stepchild, a child whom he has legally adopted and a child for whose care and maintenance he was, in the opinion of the Committee of Management, responsible at the date of his death or such other date as the Committee of Management may consider relevant.

**“Closure Date”** means the later of:

- (a) *the date on which the last restructuring scheme made by the Secretary of State under section 12 of the 1994 Act comes into force; and*
- (b) *the last date when the Principal Employer has employees who are members of the Scheme;*

*or such later date as the Guarantor shall determine.*

**“Colliery Accident”** means any accident happening to a Colliery Worker on or after 5th July 1948 but before 30th March 1970, and arising out of and in the course of his employment as a Colliery Worker, which is found by the authority by whom that question is to be determined under the Social Security Act or any statutory provisions directly or indirectly replaced by it to be an industrial accident as defined in section 107(5) of that Act or any statutory provisions so replaced by that provision.

**“Colliery Disease”** means, in relation to any Colliery Worker, any disease or personal injury prescribed under section 76 of the Social Security Act or any statutory provisions directly or indirectly replaced by it in relation to the employment of that Colliery Worker, which

- (a) Before 1st January 1978 was determined in accordance with the Industrial Injuries Scheme or any provisions directly or indirectly replaced by it to be due to the nature of his employment as a Colliery Worker and to have developed on or after 5th July 1948 but (unless he was not a member of the Scheme when it developed) before 30th March 1970; or
- (b) Insofar as it was not so determined, is due to the nature of such employment and has so developed, or if and insofar as is necessary is determined to be so due and to have so developed, in either case under and in accordance with the Rules.

**“Colliery Worker”** means any person employed on or after 5th July 1948 but before 30th March 1970 in a Certified Employment, otherwise than as a clerical worker, in or about a colliery (other than an opencast working) or at a workshop (whether in or about a colliery or not) at which work is done wholly or mainly for one or more collieries, who is below the rank of under-manager or any similar grade and who is employed by the Principal Employer or a Small Mine Licensee.

Provided for the avoidance of doubt that for the purposes of this definition the expression “coal mining activities” in the definition of “Small Mine Licensee” in this paragraph shall not include opencast working.

“**Committee of Management**” means *until the Guarantee Date* the Committee of Management constituted in accordance with Clause 21 *and with effect from the Guarantee Date means the committee of management or the board of directors of the Trustee.*

“**Compound Interest**” means compound interest with yearly rests.

“**Contributing Service**” in relation to any person means (subject as hereinafter provided and subject to the provisions of paragraph (2) of Rule 2—

- (a) Service by him in Eligible Employment (which for the purposes of this definition shall be deemed to include any part of a Scholarship Period) on or after 6th April 1975 until he attains Pensionable Age *or (if earlier) the Transfer Date* but shall not include any Period of Strike Absence occurring after February 1984;
- (b) Where a Transfer Payment is made to the Scheme from another Occupational Pension Scheme in respect of that person under Rule 28, such period of Contributing Service (if any) as may be credited to him by virtue of such Transfer Payment, under and subject to the terms referred to in paragraph (2) of that Rule on which such period of Contributing Service is so credited to him; and
- (c) Any period of Contributing Service credited to him by virtue of the operation of Rule 3 or Rule 25.

Provided that—

- (i) no period of service in Eligible Employment shall be taken into account more than once;
- (ii) except for the purpose of calculating any benefits payable to him under paragraph (5) of Rule 15 upon the termination of that period of service, no period of service in respect of which a Contributions Equivalent Premium has been paid and has not been refunded or in respect of which a refund of contributions is, subject to sub-paragraph (c) of paragraph (5) of Rule 15, paid or payable to him under sub-paragraph (b)(i) of that paragraph, or both, shall be taken into account; and
- (iii) no period of service in Eligible Employment in respect of which Earnings are received shall be taken into account unless Normal Contributions calculated by reference to those Earnings are paid if due

in determining or calculating the period of Contributing Service in relation to any person

Provided also that if the definition of Contributing Service in the Scheme and Rules as they stood prior to the 20th November 1986 were applied to the calculation of any benefit earned or accrued prior to that date that benefit would be greater than the amount of that benefit calculated on the basis of this definition the definition in the earlier Scheme and Rules shall apply, but so that in the application of the definition in the earlier Scheme and Rules, any service in Eligible Employment during the period commenced on 6th April 1975 and ended on 29th February 1984 shall be accepted as Contributing Service notwithstanding that during any part of that period no contributions were paid by or on behalf of any person *and any such service on or after the Transfer Date shall not be Contributing Service.*

“**Contributions Equivalent Premium**” has the meaning assigned thereto by Section 42(1) of the Pensions Act.

“**Crystallised Augmentations**” means those benefits payable from the bonus Augmentation Fund referred to in Clause 18B(5)(ii).



**“Crystallised Augmentation Fund”** means the notional sub-fund which is part of the Guaranteed Fund attributable to liabilities in respect of Guaranteed Crystallised Augmentations.

**“Deficiency Contributions”** means contributions payable by an Employer under paragraph (2) or (3) of Clause 2.

**“Dependant”** in relation to a member or other person means—

- (a) Any other person who is, or insofar as is relevant was at the date of death, Retirement from or termination of service in Eligible Employment of that member or other person, financially dependent on him; and
- (b) If and insofar as the Committee of Management in their discretion think fit, any Child of that member or other person (other than a child who is or was a Child of that member or other person solely because that member or other person is or was in the opinion of the Committee of Management responsible for such child’s care and maintenance) who does not satisfy the conditions specified in paragraph (a) of this definition but is for the time being under the age of 18 or undergoing full-time education or vocational training or both.

**“Earnings”** in relation to any person—

- (a) Means the aggregate of—
  - (i) the total weekly emoluments of that person within the meaning of section 183 of the Income and Corporation Taxes Act 1970 from Eligible Employment assessable under Schedule E of the said Act (before any deductions of reliefs under that Act or for the purposes of that Schedule), which shall include or if and insofar as may be necessary shall be deemed to include sums payable to that person by reference to Eligible Employment—
  - (b) by way of Maternity Pay;
  - (c) in respect of arrears of pay in pursuance of an order for reinstatement or re-engagement;
  - (d) by way of pay in pursuance of an order for the continuation of a contract of employment; or
  - (e) by way of remuneration in pursuance of a protective award; under the Employment Protection (Consolidation) Act 1978;
  - (i) the total weekly Payments to that person in relation to Trade Union Activities in relation to any Week beginning not earlier than 1st January 1976 *and not later than the Transfer Date*;
  - (ii) if that person so elects, the total weekly Payments to that person in relation to Trade Union Activities in relation to any Week beginning not earlier than 6th April 1975 and not later than 31st December 1975 or including either of those dates; and
  - (iii) the total weekly Payments made to that person in relation to Inspection Activities in relation to any Week beginning not earlier than 1st October 1976 *and not later than the Transfer Date*;
- (b) During any period *before the Transfer Date* which is a Scholarship Period in relation to that person, means his Earnings (if any) calculated in accordance with the foregoing provisions of this definition Provided that if there are no such Earnings (other than any Earnings falling within the provisions of paragraph (a) (ii), (iii) or (iv)) that person’s Earnings shall be deemed to be the following—
  - (i) if during his last period of service in Eligible Employment before the commencement of that Scholarship Period he was subject to the decisions of

the Coal Mining Industry of Great Britain Conciliation Scheme established by an Agreement between the Principal Employer and the Union dated 5th December 1946 or of the Coal Mining Industry of Great Britain Ancillary Undertakings Coke and By-Product Group Conciliation Scheme established by an Agreement between the Principal Employer and the Union dated 5th February 1948, as amended, a weekly amount equal to five times whatever shall have been the appropriate National Standard Grade Rate or inclusive Standard Shift Rate or the National Standard Rate for Age for Juveniles applicable to him immediately before the termination of such period of service; or

- (ii) in any other case, such comparable weekly amount as the Pensions Officer may determine having regard to that person's basic rate of emoluments immediately before the termination of his last period of service in Eligible Employment before the commencement of such Scholarship Period;

and so that any reference in the Rules to the amount of any Earnings in relation to any person in respect of any period before 6th April 1978 but not any subsequent period shall include the value of any part of such Earnings not consisting of money payments, and in respect of any period on or after 29th February 1976 shall not include any payment or allowance in lieu of concessionary coal or any amount calculated by reference to any such payment or allowance.

- (c) In respect of any Period of Strike Absence in respect of which a member has elected to pay special contributions in accordance with Rule 3 shall mean the amount of his Estimated Earnings.

**“Eligible Employment”** in relation to—

- (a) Any period of employment on or after 6th April 1975, means (subject to the provisions of paragraph (2) of Rule 2) regular full-time employment (including any employment which would have been regular full-time employment had the person employed not been engaged in Trade Union Activities or Inspection Activities or both) *before the Transfer Date*—

- (i) by an Employer other than an Associated Undertaking of a person who is eligible (or would if he were under Pensionable Age have been eligible) to become a member of the Scheme by virtue of Rule 1; or
- (ii) by an Associated Undertaking (subject to the provisions of paragraph (3) of Rule 2) of a person who was immediately or within not more than one Month before entering such employment a member of the Scheme by virtue of previous employment with the Principal Employer, a Subsidiary or another Associated Undertaking Provided that in the case of a person who entered the employment of the first-mentioned Associated Undertaking before 6th April 1975 he has satisfied the conditions for continued membership of the Scheme specified in paragraph (3) of Rule 3 of the Rules as they had effect immediately before 6th April 1975;

and so that during any period of time *before the Transfer Date* in respect of which a person is entitled to be remunerated by the Principal Employer by virtue of the provisions of the Agreement dated 9th April 1958 between the Principal Employer and the Union relating to attendance by nominated workmen at the place of certain occurrences that person shall for the purposes of this paragraph, of the definition of “Employer” in this Rule and of sub-paragraph (a) of paragraph (2) of Rule 1 be treated as employed by the Principal Employer or, if that person is normally employed by a Small Mine Licensee, by that Small Mine Licensee;

- (b) Any period of employment before 6th April 1975 means employment which constituted Eligible Employment under or as defined by the Scheme and the Rules as they had effect from time to time before that date any period of such employment on or after 3rd April 1961 being calculated in accordance with Rule 9 of the Rules as they had effect immediately before 6th April 1975.

Provided that (subject in the case of (i) below to sub-paragraph (e)(ii) of paragraph (3) of Rule 27)—

- (i) except insofar as it is credited to him as Qualifying Service under sub-paragraph (c) of paragraph (1) of Rule 7, no period of service during the period beginning on 3rd April 1961 and ending on 5th April 1975 in respect of which a payment in lieu of contributions has been made in pursuance of the National Insurance Act or any statutory provisions directly or indirectly replaced by it; and
- (ii) except for the purpose of calculating any benefits payable to him under paragraph (5) of Rule 15 upon the termination of that period of service, no period of service in respect of which a Contributions Equivalent Premium has been paid and has not been refunded or in respect of which a refund of contributions is, subject to sub-paragraph (c) of paragraph (5) of Rule 15, paid or payable to him under sub-paragraph (b)(i) of that paragraph, or both;

shall be taken into account in determining or calculating the period of service in Eligible Employment in relation to any person.

**“Eligible Unions”** means the National Union of Mineworkers and the Union of Democratic Mineworkers; and references to “Eligible Union” shall be construed accordingly.

**“Employer”** in relation to any member employed *before the Transfer Date* by the Principal Employer, a Subsidiary, a Small Mine Licensee, an Associated Undertaking or (in respect of a Branch Secretary only) a Recognised Trade Union means the Principal Employer or that Subsidiary or Small Mine Licensee or Associated Undertaking or Recognised Trade Union, as the case may be; in relation to any person who *before the Transfer Date* is remunerated out of moneys provided by deductions from the wages of or contributions by other persons means the person or persons responsible for the payment of wages (other than wages in respect of Trade Union Activities or Inspection Activities) to such member; in relation to a member engaged in Trade Union Activities means the Recognised Trade Union in activities in respect of which or for the purposes of which he is engaged; in relation to a member engaged in Inspection Activities means the person or persons (including any body of persons incorporated or unincorporated) responsible for making Payments to the member in relation to such Inspection Activities or for providing the funds from which such Payments to the member are made; and in relation to any other member for the time being in Eligible Employment means that member’s employer; but so however that for the purposes of the Scheme and the Rules there may at the same time be more than one Employer in relation to a member.

**“Estimated Earnings”** means in relation to any Period of Strike Absence the notional amount which the Pensions Officer shall estimate the member would have received as Earnings if he had worked normally during the Weeks of Strike Absence in question.

**“Extra Service Credit”** means such period of Contributing Service as awarded under Rule 25.

**“the First Transfer Date”** means the date which immediately precedes the first date on which the duty specified in paragraph 3(3) of Schedule 5 to the 1994 Act arises in accordance with paragraph 3(2) of that Schedule.

**“Guarantee Date”** means the date from which arrangements entered into by the Guarantor in relation to the Scheme under paragraph 2(9) of Schedule 5 to the 1994 Act have effect.

**“Guaranteed Crystallised Augmentations”** has the meaning ascribed to the term in Clause 18B(5)(iv).

**“Guaranteed Fund”** means the Guaranteed Fund referred to in Clause 18B.

**“Guaranteed Liabilities”** means the liabilities referred to in sub-paragraphs (a), (b) and (c) of paragraph (4) of Clause 40.

**“Guarantor”** means the Secretary of State.

**“Guarantor’s Fund”** means the Guarantor’s Fund referred to in Clause 18B.

**“Incapacity”** has the meaning conferred on it by paragraph 11 of the Mineworkers Sick Pay Scheme dated 20th March 1970 between the Principal Employer and the Union.

**“Income Tax Year”** means any period from 6th April in one calendar year to 5th April in the next following calendar year inclusive.

**“Index of Retail Prices”** has the meaning assigned thereto by Rule 26.

**“Industrial Accident”** in relation to any person means any accident arising out of or in the course of his employment in Eligible Employment.

**“the Industrial Death and Retirement Scheme”** means the N.C.B. Industrial Death and Retirement Scheme.

**“Industrial Disease”** in relation to any person means any disease or personal injury prescribed under section 76 of the Social Security Act or any statutory provisions directly or indirectly replaced by that section in relation to his employment, being a disease or injury due to the nature of his employment in Eligible Employment.

**“the Industrial Injuries Act”** means the National Insurance (Industrial Injuries) Act 1965.

**“the Industrial Injuries Deed”** means the Deed dated 31st December 1977 and made between George Clifford Shephard and Others of the one part and the Principal Employer of the other part relating to the termination of the Industrial Injuries Scheme.

**“the Industrial Injuries Scheme”** means the National Insurance (Industrial Injuries) Colliery Workers Supplementary Scheme set forth in Schedule 1 to the National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment & Consolidation Order 1970.

**“the Inland Revenue Limits”** means the limitations set out in Rule 9 on the form and the amount of benefit which may not be contravened or exceeded without prejudicing the approval of the Scheme by the Board of the Inland Revenue for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988.

**“Inspection Activities”** means activities in the course of or for the purposes of—

- (a) An inspection carried out by virtue of sub-section (2) or (3) of or under such agreement as is mentioned in sub-section (4) of section 123 of the Mines and Quarries Act 1954 by a member who is for the time being—
  - (i) a member of a panel appointed under sub-section (1) of the said section; or
  - (ii) an adviser selected to accompany a member of such a panel by virtue of sub-section (5) of the said section when such inspection is carried out; or
- (b) An inspection carried out by virtue of the provisions of the Schedule to an Agreement dated 6th March 1978 made between the Principal Employer, the

Union, the National Association of Colliery Overmen Deputies and Shotfirers, and the British Association of Colliery Management.

**“the Investment Reserve”** means that notional fund forming part of the Pension Fund created pursuant to Clause 18A.

**“IWS—MPS”** means the retirement benefits scheme known as The Industry-Wide Mineworkers' Pension Scheme (being a “new scheme” within the meaning of paragraph 3(1) of Schedule 5 to the 1994 Act) to which a member to whom Rule 28A applies requests that the transfer payment referred to in Rule 28A be made.

**“Local Committee”** means *subject to Rule 46(2)* a Local Committee constituted in accordance with the provisions of Clause 33 *as it had effect prior to the Guarantee Date*.

**“Maternity Pay”** has the meaning assigned to the expression “statutory maternity pay” within Section 164 of the Social Security Contributions and Benefits Act 1992.

**“Month”** means calendar month.

**“the National Insurance Act”** means the National Insurance Act 1965.

**“Normal Contributions”** means contributions payable by or in respect of a member under Rule 4.

**“Occupational Pension Scheme”** means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with service qualifying them therefore in an employment of any such description or category.

**“Payment”** in relation to Trade Union Activities means any money payment made by a Recognised Trade Union to a member *before the Transfer Date* for or in respect of Trade Union Activities or expenses incurred in carrying out Trade Union Activities in respect of or for the purposes of that Recognised Trade Union which is of a type or falls within a category agreed between the Principal Employer and that Recognised Trade Union; and in relation to Inspection Activities means any money payment made *before the Transfer Date* to a member for or in respect of Inspection Activities or expenses incurred in carrying out Inspection Activities which is of a type or falls within a category agreed between the Principal Employer and any other persons (including any body of persons incorporated or unincorporated) who are the Employer in relation to that member for the purposes of Inspection Activities in which that member is engaged.

**“the Pension Fund”** has the meaning assigned thereto by Clause 5.

**“Pensionable Age”** means, with effect on or after 1st March 1992, in respect of both a male and female member the age of 60.

**“Pensionable Earnings”** has the meaning assigned thereto by Rule 8.

**“the Pensions Act”** means the Social Security Pensions Act 1975 and, unless the context otherwise requires, includes a reference to any Regulations made under it for the time being in force.

**“Pensions Officer”** means a person appointed by the Principal Employer (*before the Guarantee Date*) or by the Committee of Management (*on or after the Guarantee Date*) to administer the Scheme.

**“Period of Strike Absence”** means any period before the Transfer Date comprising a number of consecutive Weeks of Strike Absence, when that number exceeds one Week.

**“Permanently Incapable of Self-Support”** in relation to any person means that he is, in the opinion of the Principal Employer’s Medical Adviser, incapable of supporting

himself by reason of physical or mental infirmity and likely to remain so incapable for a prolonged period.

**“Principal Employer”** means, according to the context in which it appears, either (i) the British Coal Corporation and/or (ii) with effect from the date of assumption any other body or bodies corporate which shall be a successor or successors to the whole or a substantial part of the undertaking of the British Coal Corporation and which shall have assumed by deed or statutory authority the obligations of the Principal Employer under the Scheme and Rules.

**“the Principal Employer’s Medical Adviser”** means any qualified Medical Practitioner appointed or approved *before the Guarantee Date* by the Principal Employer for the purposes of the Scheme *or on or after the Guarantee Date by the Committee of Management* and references to the opinion or certificate of the Principal Employer’s Medical Adviser shall be construed as references to such opinion or certificate or, as the case may be, to the determination of an independent Medical Consultant given under Rule 48.

**“the Principal Employer’s Records”** means the records of contributing members of Trade Unions (including the Eligible Unions) employed *before the Guarantee Date* by the Principal Employer and Subsidiaries which are held by the Principal Employer and Subsidiaries and prepared on the basis of instructions given by the relevant employees being records such that any employee is entitled from time to time to require that he be informed of the Eligible Union, if any, to which he is attributed as a member and if he so thinks fit by written notice to require an attribution to be changed, removed or made.

**“Qualifying Service”** has the meaning assigned thereto by Rule 7.

**“Recognised Insurance Company”** means an insurance company which is authorised by the competent authority of a member State of the European Communities under either Article 6 or Article 27 of Council Directive 79/267/EEC.

**“Recognised Trade Union”** means a Trade Union in relation to which *before the Closure Date* an agreement in writing for the time being subsists between the Principal Employer and that Trade Union to the effect that that Trade Union should be a Recognised Trade Union for all the purposes of the Scheme and the Rules.

**“Relative”** means a lawful widow or widower, a Child as defined in this paragraph, a lineal descendant or ascendant in a direct line not being a Child as defined in this paragraph stepfather, stepmother, brother, sister, half-brother, half-sister, stepbrother or stepsister, and any person who is such a relative in consequence of legal adoption or would have been such a relative if some person born illegitimate had been born legitimate.

**“Relevant Members”** means *before the Closure Date* contributing members of an Eligible Union who are in Eligible Employment and are members of the Scheme.

**“Relevant Time”** means, in the case of employees paid weekly, the end of the last period of seven days by reference to which an employee’s remuneration is normally calculated in which all weekdays (Mondays to Fridays inclusive) fall in October or, in the case of other employees the end of October in any year.

**“Retirement”** has the meaning assigned thereto by paragraph (1) of Rule 2.

**“the Rules”**, subject to the provisions of paragraph (3) of this Clause, means the Rules annexed hereto, and unless the subject or the context otherwise requires references to the Rules shall include references to the Scheme and the Schedules to the Rules.

**“Rules Amendment Committee”** means the Rules Amendment Committee constituted under Clause 38.

“**the Scheme**”, subject to the provisions of paragraph (3) of this Clause, means this Scheme, and unless the subject or the context otherwise requires references to the Scheme shall include references to the Rules and the Schedules to the Rules.

“**Scholarship Period**” has the meaning assigned thereto by Rule 4.

“**the Secretary**” means, (a) *before the Guarantee Date*, the joint Secretaries or the surviving or continuing joint Secretary or joint Secretaries of the Committee of Management and the Rules Amendment Committee and includes any person nominated by the Committee of Management to perform any of the duties of such joint Secretaries and, (b) *from the Guarantee Date*, the secretary appointed under Clause 36B.

“**the Secretary of State**” means the Secretary of State for Trade and Industry.

“**Small Mine Licensee**” means any individual working coal by virtue of the grant of a gale in the Forest of Dean or in any other part of the Hundred of St. Briavels and any person or body of persons for the time being engaged in coal mining activities by virtue of a licence granted by the Principal Employer under section 36(2)(a) of the Coal Industry Nationalisation Act 1946 who for the time being is bound by the provisions of the Scheme in relation to persons employed by him.

“**the Social Security Act**” means the Social Security Act 1975.

“**the Social Security Legislation**” means the Social Security Act and the Industrial Injuries and Diseases (Old Cases) Act 1975 and all provisions of any Acts of Parliament consolidated by those Acts, including any provisions of such Acts remaining or deemed to remain in force for any purpose, and the Social Security (Consequential Provisions) Act 1975, and also any regulations made or taking effect under any of the above-mentioned Acts or provisions for the time being in force or deemed to be in force.

“**Special Dependant**” has the meaning assigned thereto by Part III of the Fourth Schedule.

“**the Staff Scheme**” means the British Coal Corporation Staff Superannuation Scheme established by a Resolution of the Principal Employer dated 31st December 1946.

“**Standard Contributions**” means contributions payable by an Employer by virtue of paragraph (1) of Clause 2.

“**State Pensionable Age**” means the age of 65 in the case of a man and the age of 60 in the case of a woman or in either case such other age as legislation may determine as State Pensionable Age.

“**Subsidiary**” means any company which for the time being is a Subsidiary within the meaning of Section 736 of the Companies Act 1985 of the Principal Employer.

“**Supplementary Fatal Injury Benefit**” means a pension or allowance under Article 4(1)(c), (d) or (e) of the Industrial Injuries Scheme or under Clause 5(1) or (3) of the Industrial Death and Retirement Scheme.

“**Termination Date**” has the meaning given to the term in paragraph (3) of Clause 40.

“**Trade Union**” means an organisation (whether permanent or temporary) which either

- (a) Consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations (as defined in section 28(2) of the Trade Union and Labour Relations Act 1974); or
- (b) Consists wholly or mainly of—

- (i) constituent or affiliated organisations which fulfil the conditions specified in paragraph (a) above (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions); or
  - (ii) representatives or such constituent or affiliated organisations;
- and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations (defined as aforesaid) or include the regulation of relations between its constituent or affiliated organisations.

**“Trade Union Activities”** means activities before the Transfer Date by a member (other than a Branch Secretary) in respect of or for the purposes of a Recognised Trade Union.

**“Transfer Date”** means:—

- (a) *in relation to a member paying Normal Contributions (other than a Branch Secretary or an employee of a Small Mine Licensee) such date after the Guarantee Date as immediately precedes the day on which either:—*
  - (i) *the employment of the member is transferred to another employer which is not an Employer; or*
  - (ii) *the Employer of the member ceases to be a Subsidiary of the Principal Employer;*
- (b) *In relation to a member who is an employee of a Small Mine Licensee or is a Branch Secretary, the First Transfer Date.*

**“Transfer Payment”** in relation to any person means a payment made by one Occupational Pension Scheme to another Occupational Pension Scheme or a personal pension scheme (as defined in Section 1 of the Pension Schemes Act 1993) as a result of which accrued rights of that person under the former Occupational Pension Scheme (which may include rights accrued by virtue of any Transfer Payment) are transferred to, and allowed to that person under, the latter Occupational Pension Scheme, or personal pension scheme in accordance with the terms on which the Transfer Payment is made and accepted.

**“the Trustee”** subject to the provisions of Clause 5A(5) shall from the Guarantee Date mean Mineworkers' Pension Scheme Trustees Limited or other the trustee or trustees from time to time of the Scheme as may be appointed under Clause 5A of the Scheme.

**“the Union”** means the National Union of Mineworkers.

**“Week”** for the purpose of determining a person's contributions, credits or Earnings and for the purpose of the definition of **“Week of Strike Absence”** means the period of seven days by reference to which that person's wages are normally calculated.

**“Week of Strike Absence”** means any Week in a person's period of Eligible Employment during the whole of which a person is absent from work during his normal working hours due to strike action by him or is absent from work or unable to work during his normal working hours by reason of strike action by any other member or members of the Trade Union to which he belongs. Without prejudice to the generality of the foregoing a person shall be deemed to be absent from work due to strike action by him during any period in which any other member or members of that Trade Union are taking part in strike action affecting his normal place of work if he is absent from work without prior authorisation by the Employer at a time when he is not prevented from working by Incapacity.

**“Wholly-Owned Subsidiary”** in relation to the Principal Employer means a company the entire beneficial interest in all shares of which is held by one or more of the Principal Employer and other Wholly-Owned Subsidiaries of the Principal Employer.



**“Widow”** (except for the purposes of Rule 9A) means:—

- (a) in relation to a man his lawful widow; and
- (b) in relation to a woman who dies on or before 5th April 1988 her lawful widower, being a widower who, in the opinion of the Principal Employer’s Medical Adviser, is by reason of any infirmity permanently incapable of self-support and who was a Dependant in relation to such woman; and
- (c) in relation to a woman who dies on or after 6th April 1988 her lawful widower but so that for the purposes of entitlement to any pension under the Rules any such widow or widower, as is specified in paragraphs (a) and (b) above, shall cease to be a widow within this definition if she or he remarried before 1st January 1979.

**“the 1994 Amendment Date”** means 30th September 1994.

(3) Unless the subject or the context otherwise requires, references to any Act, Regulations, Agreement, Scheme, Rules or Schedule or any provision thereof shall be construed as references to the same as amended or re-enacted from time to time or, as the case may be, to any Act, Regulations, Agreement, Scheme, Rules or Schedule or any provision thereof repeating or revoking and replacing the same.

(5) In the construction of references to the age of any person, that person shall be deemed to have attained that age if he survives until midnight of the day preceding the anniversary of his birth on which he will have lived for the number of years being the number specified.

(6) Unless the subject or the context otherwise requires, words in the singular include the plural and words in the plural include the singular and words importing the masculine gender include the feminine.

The headings to the Scheme, the Rules and the Schedules to the Rules are intended for convenience of reference only and are not to be deemed to be or construed as part of the Scheme.

## THE RULES

### I

#### —MEMBERSHIP AND TERMINATION OF EMPLOYMENT AND SERVICE

##### **ELIGIBILITY**

1.—(1) On and after 6th April 1975 *and before the Transfer Date* the following persons shall if they are under Pensionable Age, be eligible to become members of the Scheme, that is to say—

- (a) Every person who is employed by the Principal Employer or with effect from 1st October 1977 a Subsidiary, otherwise than in a grade eligible for the Staff Scheme, not being a person who is contributing to the Staff Scheme;
  - (b) Every person who is employed by a Small Mine Licensee, being a person employed in Coal Industry Activities who is not in a grade in which, if he were employed by the Principal Employer he would be eligible for the Staff Scheme; and
  - (c) Every person who is employed as a Branch Secretary.
- (2) For the purposes of paragraph (1) of this Rule—
- (a) “employed” in relation to any person means employed in regular whole-time employment, including employment which would have been regular whole-time

employment had that person not been engaged in Trade Union Activities or Inspection Activities or both; and

- (b) “Coal Industry Activities” has the meaning assigned thereto by section 63 of the Coal Industry Nationalisation Act 1946.

(3) Notwithstanding the foregoing provisions of this Rule, if a member shall cease to be eligible for membership in accordance with the provisions of paragraph (1) of this Rule by reason of his becoming an employee of an employer which is not or has ceased to be an Employer as defined in Clause 41(2) as a consequence of the sale of the business in which or the company by which he is employed, he may, subject to compliance with the provisions of Clause 4A(1) and with the consent of the Principal Employer (which may be given subject to such conditions as the Principal Employer imposes) and of his employer continue to be a member of the Scheme as the Inland Revenue may approve.

*(3) Notwithstanding the foregoing provisions of this Rule, if a member ceases to be eligible for membership in accordance with the provisions of paragraph (1) of this Rule by reason of his becoming an employee of an employer which is not or has ceased to be an Employer as defined in Clause 41(2) as a consequence of a sale of the business in which or the company by which he is employed, with effect from the Guarantee Date the Committee of Management with the consent of the Guarantor may at its discretion direct, that the employer of such contributing member and the contributing member may participate or continue to participate in the Scheme until the First Transfer Date provided such participation does not prejudice continued approval of the Scheme by the Board of Inland Revenue for the purposes of Chapter 1 of Part XIV of the Income and Corporation Taxes Act 1988.*

*(4) With effect from the Guarantee Date until the Closure Date the provisions of this Rule shall continue to have effect but no person shall become eligible to become a member of the Scheme after the Guarantee Date without the consent of the Guarantor.*

*(5) No person shall become eligible to become a member of the Scheme after the Closure Date.*

## **CEASING NORMAL CONTRIBUTIONS**

**1A.—**(1) A member who, while remaining in Eligible Employment, wishes to cease to pay Normal Contributions in accordance with the provisions of Rule 4, shall give written notice to the Pensions Officer. On the giving of such notice his service in Eligible Employment and Contributing Service shall be deemed to terminate pursuant to the provisions of Rule 9B with effect from such date as Normal Contributions to the Scheme cease to be deducted from his Earnings.

(2) A person who has given written notice pursuant to paragraph (1) of this Rule and who has ceased to pay Normal Contributions as required by Rule 4, may *before the Transfer Date* be permitted to re-commence payment of Normal Contributions from such date and on such terms and subject to such conditions as the Committee of Management, in their absolute discretion, may think fit.

## **RETIREMENT AND TERMINATION OF EMPLOYMENT AND SERVICE**

- (a) Where for the purposes of the Rules reference is made to a member’s Retirement from Eligible Employment, such Retirement shall be deemed to take effect on the termination otherwise than by reason of death of his service in Eligible Employment, and “retire” shall be construed accordingly.
- (b) The service in Eligible Employment of a member who would but for this subparagraph be treated as remaining in Eligible Employment on or after 6th April 1975 and after the expiration of a period of five years after he attains Pensionable

Age shall for all the purposes of the Rules be deemed to terminate, and he shall for those purposes be deemed to retire from Eligible Employment, upon that date or the expiration of that period, whichever is the later.

- (c) Where for the purposes of the Rules reference is made to a member's service in Eligible Employment terminating on or after 1st April 1990, such reference shall be deemed to include a member whose service in Eligible Employment actually terminated prior to such date but which would have terminated after such date if the member had been given the full period of notice of termination to which he was entitled under his contract of employment.
- (d) *A member who on the day immediately before the Transfer Date has attained Pensionable Age but is continuing in Eligible Employment shall be deemed to retire from Eligible Employment on that day.*

(2) For the purposes of awarding or determining the amount of benefits on or subsequent to Retirement or termination of service in Eligible Employment under the Rules in relation to any person and for the purposes of determining whether a person's service in Eligible Employment or employment by an Associated Undertaking or Contributing Service is continuous or comprises consecutive periods within the meaning of the Rules that person's service in Eligible Employment shall be deemed not to have terminated and his service in Eligible Employment or employment by an Associated Undertaking or Contributing Service, as the case may be, shall be deemed to have been continuous and to have comprised consecutive periods if—

- (a) Notwithstanding that such service has ceased—
  - (i) *before the Transfer Date* he re-enters Eligible Employment or employment by an Associated Undertaking or his Contributing Service re-commences, as the case may be, within not more than one Month after such cessation or pursuant to the exercise of a right to return to work under section 48(1) of the Employment Protection Act 1975; or
  - (ii) such cessation takes place on or after 6th April 1978 and within not more than six Months (or such longer period as the Secretary of State allows in a particular case under Regulation 10(3)(a)(ii) of the Occupational Pension Schemes (Contracting-out) Regulations 1975) and before attaining Pensionable Age *and before the Transfer Date* he re-enters Eligible Employment or employment by an Associated Undertaking or his Contributing Service recommences, as the case may be, and either no Contributions Equivalent Premium has been paid in respect of him in connection with such cessation or any Contributions Equivalent Premium so paid is refunded; or
- (b) Such Service has ceased on the commencement of a Scholarship Period in relation to him and he re-enters Eligible Employment or employment by an Associated Undertaking or his Contributing Service re-commences, as the case may be, within not more than one Month after the termination of such Scholarship Period *and before the Transfer Date*; or
- (c) Notwithstanding that a person's period of Contributing Service ceases by reason of any Period of Strike Absence and his Contributing Service recommences more than six months later and immediately after any such Period of Strike Absence *and before the Transfer Date* Provided that in the case of any Period of Strike Absence after February 1984 and before 1st January 1987 he makes an election under Rule 3.

Provided that no period between such cessation and such re-entry or re-commencement shall be taken into account as a period of Eligible Employment or employment by an Associated Undertaking or Contributing Service as the case may be by virtue of this paragraph.

(3) A person who on or after 6th April 1975 *and before the Transfer Date* enters Eligible Employment being employment by an Associated Undertaking other than a Wholly-Owned Subsidiary of the Principal Employer unless he was within not more than one Month immediately before the date of such entry employed by—

- (a) Another Associated Undertaking other than a Wholly-Owned Subsidiary of the Principal Employer into the employment of which he entered on or after 6th April 1975 and during which employment he did not exercise the option provided for in this paragraph; or
- (b) Another Associated Undertaking by whom he was continuously employed since before 6th April 1975;

may terminate his obligation to pay contributions under the Rules with effect from the date of his entering the employment of the first-mentioned Associated Undertaking if within one Month he exercised in writing an option to do so and the Principal Employer and that Associated Undertaking agree to his doing so. Upon the exercise of such option that person's employment in Eligible Employment and Contributing Service shall for the purposes of the Rules and subject to the provisions of paragraph (2) of this Rule be deemed to have terminated upon the date of his entering the employment of the first-mentioned Associated Undertaking.

## II

### —CONTRIBUTIONS

3.—(1) Any person in Eligible Employment may elect to pay special contributions in respect of any Period of Strike Absence in accordance with the following provisions of this Rule.

(2) In respect of a Period of Strike Absence commencing on or after 1st January 1987 the Pensions Officer shall determine the total amount of such special contributions by reference to such person's Estimated Earnings and the Normal Contributions he would have paid pursuant to Rule 4 if his Estimated Earnings had been Earnings. He shall further determine the weekly amounts of special contributions and the number of Weeks over which such weekly amounts shall be payable. Such determinations shall be notified to such person.

(3) Within four weeks of such notification *and before the Transfer Date* such person may elect to pay such special contributions by notifying the Pensions Officer in writing. Upon the making of such an election he shall pay to the Scheme (subject to paragraphs(8) *and* (9) of this Rule) the weekly amounts of special contributions over the number of weeks determined by the Pensions Officer under paragraph (2) of this Rule.

(5) When any such person shall make an election in accordance with paragraph (3) of this Rule, then notwithstanding any other provisions of the Scheme and Rules:—

- (a) *subject to paragraph (9) of this Rule* such Period of Strike Absence shall be deemed to be included in his total period of Contributing Service, and
- (b) such Estimated Earnings shall be deemed to be his Earnings during the period of Strike Absence.

(7) For the purpose of determining the Employer's obligation to pay Standard Contributions under Clause 2 the amount of special contributions in accordance with this Rule shall not be treated as contributions payable under the Rules by or in respect of the members or persons concerned. Provided that:—

- (ii) the Principal Employer shall not be required to make payments under this paragraph in respect of a Period of Strike Absence commencing prior to 28th October 2000;
- (iii) no Employer other than the Principal Employer shall be required to make payments under this paragraph in respect of a Period of Strike Absence commencing prior to 27th October 2001; and
- (iv) an Employer shall pay to the Scheme amounts which bear the same proportion to such special contributions and weekly amounts as the member's Normal Contributions payable under paragraph (1) of the Rule 4 bear to the Standard Contributions payable by an Employer under paragraph (1) of Clause 2.

Such amounts shall be paid by the Employer at the times the special contributions are paid and the weekly amounts deducted or at the Employer's option may be paid in capitalised amounts at such times, over such periods and in such manner as may be agreed with the Actuary.

(8) Where any person is making payments of weekly amounts of special contributions under sub-paragraph (3) of this Rule when his service in Eligible Employment terminates (*otherwise than by reason of the Transfer Date having arrived*) or he dies the Pensions Officer shall on the advice of the Actuary determine the total amount of the special contributions remaining unpaid to the Scheme at the date of such termination or death. This amount shall be deducted from any payment of lump sum benefit or Transfer Payment to or in respect of that person under the Rules.

(9) *Where any person is making payment of weekly amounts of special contributions under sub-paragraph (3) of this Rule when his service in Eligible Employment terminates by reason of the Transfer Date having arrived the payments shall cease and the Pensions Officer shall on the advice of the Actuary determine the extent to which the Period of Strike Absence is to be deemed to be included in his total period of Contributing Service.*

## **NORMAL CONTRIBUTIONS**

4.—(1) Subject to the provisions of paragraph (1) of Rule 1A every member shall pay contributions (in the Rules called "Normal Contributions") at the rate of 5.1/4 per cent of the amount of the member's Earnings in respect of any period during which he is in Eligible Employment and made to him not earlier than 1st January 1979 and not later than whichever is the earlier *earliest* of the Week in which his period of Contributing Service totals 40 complete years, or the Week in which he attains Pensionable Age *or the Transfer Date*.

(2) If after entering Eligible Employment any person is not engaged in work in the course of such employment during the period of any scholarship approved by the Principal Employer for the purposes of this paragraph (in the Rules called a "Scholarship Period"), Normal Contributions shall be paid in respect of him by the Principal Employer at the rate specified in paragraph (1) of this Rule in relation to any part of such Scholarship Period which begins not earlier than the Week including 6th April 1975 and ends with the Week in which he attains Pensionable Age.

## **ADDITIONAL VOLUNTARY CONTRIBUTIONS**

5.—(1) This Rule sets out the terms upon which a member may elect to make additional voluntary contributions to the AVC Scheme in order to secure additional benefits.

(2) In this Rule

- (a) “AVC Scheme” means the scheme embodied in this Rule for the provision of certain additional benefits
  - (b) “the AVC Interest” shall mean in relation to a member contributing to the AVC Scheme his interest in the AVC Scheme in respect of his contributions to the AVC Scheme as determined by the Committee of Management where appropriate on such advice as they think fit.
- (3) No member may elect in accordance with paragraph (4) of this Rule if he is then subject to notice to terminate his employment.
- (a) Subject to paragraph (3) of this Rule a member may elect to pay additional voluntary contributions at any time prior to Pensionable Age *and prior to the Transfer Date*.
  - (b) In no circumstances shall any additional voluntary contributions be of such an amount that they would (when aggregated with any Normal or any special contributions payable under Rule 3) in any year exceed 15 per cent, or such higher percentage as the Commissioners of Inland Revenue may in a particular case prescribe, of his total remuneration from the Employer for that year.
  - (c) Contributions will be deducted from the Earnings becoming payable to a member.
  - (d) A member may, on giving reasonable notice not exceeding 12 months to the Pensions Officer reduce, increase or terminate his additional voluntary contributions provided that a reduction in his additional voluntary contributions must not result in the payment of contributions of less than such amount as the Committee of Management may from time to time determine having regard to paragraph (8) of Regulation 2 of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987.
- (5) Additional voluntary contributions shall be payable promptly in such manner (consistent with Inland Revenue approval) as the member and the Employer shall agree and shall be applied by the Committee of Management to provide additional benefits in respect of the member in such form as the member shall, with the consent of the Committee of Management, determine Provided that no part of the additional benefit shall take the form of a cash payment payable to the member during his lifetime. Such additional benefits must be reasonable having regard to the amount of the additional voluntary contributions and to the value of the other benefits under the Scheme.
- (6) On the death of a member who has paid additional voluntary contributions pursuant to this Rule before his AVC Interest shall be applied pursuant to paragraph (7) of this Rule the member’s AVC Interest shall be held by the Committee of Management upon trust with power to pay or apply the same within two years from the date of the member’s death to or for the benefit of (or by way of settlement or otherwise to trustees for the benefit of) such one or more of the member’s Dependants or Relatives in such shares and proportions (if more than one) upon such trusts and in such manner (including the provision of annuities) as the Committee of Management shall in their discretion think fit. Any part of the AVC Interest not so paid or applied within such period of two years shall be paid to the legal personal representatives of the member except that if the member’s AVC Interest would vest in the Crown as bona vacantia, the Committee of Management shall hold such AVC Interest under the trusts of the Scheme to apply the same to such of the purposes thereof as they shall decide. The Committee of Management may, but without being in any way bound to do so, have regard to any document signed by the member concerned expressing his wishes relating to the disposal of his AVC Interest.
- (7) On a member becoming entitled to benefit under Rule 10 (whether or not increased under Rule 11), Rule 12, Rule 13, Rule 14, Rule 14A, Rule 14B or Rule 15 his AVC Interest shall be applied by the Committee of Management in accordance with the wishes of the member expressed to the Committee of Management in writing Provided that:—

- (a) if the member has not expressed any wishes in writing to the Committee of Management they shall be entitled to apply the AVC Interest in providing such benefits within the Inland Revenue Limits for the member, his Dependants or Relatives as the Committee of Management in their absolute discretion shall think appropriate
  - (b) if the wishes of the member expressed pursuant to this paragraph would result in any of the benefits for which the member has elected exceeding the Inland Revenue Limits then the surplus of the money in the AVC Interest shall be applied by the Committee of Management at their discretion in providing such other benefits within the Inland Revenue Limits for his Dependants or Relatives as the Committee of Management in their absolute discretion shall deem appropriate and if the Committee of Management have provided the maximum benefits to or in respect of a member which they may provide under the Inland Revenue Limits then any remaining surplus of the money in the AVC Interest shall be paid in accordance with the provisions of paragraphs 33 and 34 of Schedule 6 to the Finance Act 1989.
- (8) Any benefit provided pursuant to paragraph (7) of this Rule shall be secured by the Committee of Management by contracts or policies taken out in the United Kingdom with a Recognised Insurance Company.
- (9) On a member ceasing to be in Eligible Employment before attaining Pensionable Age without becoming entitled to an immediate pension then
- (a) the additional voluntary contributions payable by such member shall cease forthwith;
  - (b) if the member to whom this paragraph applies takes a refund of his Normal Contributions his AVC Interest shall be returned to him subject to deduction of tax pursuant to Rule 43;
  - (c) if a transfer is made to another retirement benefits fund, scheme or arrangement in respect of part or all of a member's benefit under the Scheme a like transfer shall be made in respect of the AVC Interest; and
  - (d) subject to the preceding provisions the AVC Interest shall be applied in providing benefits in accordance with paragraph (7) of this Rule at Pensionable Age or such earlier date on which any benefits under Rule 12, Rule 13, Rule 14, Rule 14A or Rule 14B commence to be payable.

#### **PAYMENT OF CONTRIBUTIONS**

6.—(1) The amount of any Normal Contributions payable by a member under Rule 4 shall be deducted from any payment of Earnings made to that member.

(2) In assessing the amount of any Normal Contributions payable in relation to any Week any half or greater fraction of a new penny shall be treated as a whole new penny and any smaller fraction of a new penny shall be ignored.

### **III**

#### **—BENEFITS**

#### **QUALIFYING SERVICE**

7.—(1) Subject as hereinafter provided, where under the Rules provision is made for benefits to be awarded by reference to Qualifying Service such service shall be credited to a person as follows—

- (a) For any service by him in Eligible Employment on or after 6th April 1975 and before *whichever is the earlier of the Transfer Date and the date on which he attains Pensionable Age* (excluding, except on the termination of that period of service, any period of service in respect of which a Contributions Equivalent Premium has been paid and has not been refunded or in respect of which a refund of contributions is, subject to sub-paragraph (c) of paragraph (5) of Rule 15, paid or payable to him under sub-paragraph (b)(i) of that paragraph, or both) he shall be credited with Qualifying Service equal to the length of such service in Eligible Employment;

Provided that in respect of any period of service in Eligible Employment on or after 6th April 1988 he shall not be credited with Qualifying Service if he has given written notice pursuant to paragraph (1) of Rule 1A and Normal Contributions have ceased to be deducted from his Earnings.

- (b) For any service by him in Eligible Employment during the period beginning on 3rd April 1961 and ending on 5th April 1975 he shall be credited with Qualifying Service equal to the length of that service calculated in accordance with Rule 9 of the Rules as they had effect immediately before 6th April 1975.
- (c) For any service by him in Eligible Employment during the period beginning on 3rd April 1961 and ending on 5th April 1975 in respect of which a payment in lieu of contributions has been made in pursuance of the National Insurance Act or any statutory provisions directly or indirectly replaced by it he shall, for the purposes of entitlement to benefit by virtue of—
- (i) Retirement from or termination of service in Eligible Employment before 6th April 1978; or
- (ii) Retirement from or termination of service in Eligible Employment on or after 6th April 1978 on the termination of a continuous period of such service commencing before that date;

but (subject to paragraph (4) of Rule 23 and sub-paragraph (e)(ii) of paragraph 3 of Rule 27) not further or otherwise, be credited with Qualifying Service equal to the length of such service by reference to which such payment was calculated;

- (d) For any service by him in Eligible Employment during the period beginning on 3rd April 1961 and ending on 5th April 1975 in respect of which that person is entitled to a pension under the Rules, he shall be credited with Qualifying Service equal to the length of such service by reference to which such pension was calculated;
- (e) For every 78 units with which he is credited in respect of service before 3rd April 1961 other than past service within the meaning assigned to that term by Clause 42 of the Scheme as it had effect immediately before 3rd April 1961 he shall be credited with one year's Qualifying Service, and for any units not thus taken into account he shall be credited with a fraction of a year's Qualifying Service equal to the fraction which the number of units not thus taken into account bears to 78;
- (f) For any back service credit (within the meaning of Clause 42 of the Scheme as it had effect before 3rd April 1961) with which he is credited he shall be credited with the number of years' Qualifying Service which is equal to the number of years of past service (within the meaning of Clause 42 of the Scheme as it had effect before 3rd April 1961) shown in the case of a man in the Second Schedule to the Rules as they had effect before 3rd April 1961 or in the case of a woman in the Third Schedule thereto opposite the number of units comprised in the back service credit;
- (g) Where a Transfer Payment is made to the Scheme from another Occupational Pension Scheme in respect of the person under Rule 28 he shall be credited in



accordance with the terms referred to in paragraph (2) of that Rule with any period of Qualifying Service provided for by those terms.

(2) Where the total of the Qualifying Service to be credited to a person in accordance with paragraph (1) of this Rule includes a fraction of a year, the said fraction, if it is equal to one-half or more, shall be deemed to be a complete year, and if it is less than one-half shall be ignored.

(3) For the purposes of paragraph (2) of this Rule a year shall be deemed to consist of exactly 52 weeks.

## **PENSIONABLE EARNINGS**

**8.—**(1) Subject as hereinafter provided, for the purpose of the Rules “Pensionable Earnings” in relation to any person means—

- (a) The amount of that person’s average total weekly Earnings during a period of 3 consecutive years falling within the final continuous period not exceeding 13 consecutive years of his Contributing Service, such period of 3 consecutive years being the period during which the amount of his average total weekly Earnings equals or exceeds the amount of his average total weekly Earnings during any other period of 3 consecutive years during such final continuous period; or
- (b) If that person’s total final continuous period of Contributing Service comprises less than 3 consecutive years, the amount of his average total weekly Earnings during such final continuous period.

(2) Any amount of Earnings of any person taken into account for the purpose of calculating that person’s Pensionable Earnings shall be adjusted by reference to changes in the Index of Retail Prices if and insofar as is provided by Rule 26.

(3) For the purposes of this Rule “year” means Income Tax Year.

Provided that if, in respect of a year commenced on or after 6th April 1993, a person’s Pensionable Earnings for the purposes of paragraph (1) of this Rule would be increased by taking into account his total weekly Earnings during the period commenced on 6th April preceding that date of termination of his service in Eligible Employment and expiring on that date, that period shall be deemed to be a year for the purposes of this Rule.

## **INLAND REVENUE LIMITS**

**9.—**(1) Notwithstanding anything to the contrary in the provisions of the Scheme, the benefits payable to a member or to any person in respect of him shall not, when aggregated with all benefits of a like nature provided under all Relevant Schemes providing benefits in respect of Relevant Service, exceed the limits set out in the following paragraphs of this Rule or such greater limits as the Board of Inland Revenue may in writing from time to time agree.

(2) The member’s Aggregate Retirement Benefit shall not exceed:—

- (a) in respect of a Pre 1987 member or a 1987 member:
  - (i) on retirement at or before Pensionable Age, except before Pensionable Age on grounds of ill-health under Rule 12, a pension of 1/60th of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
  - (ii) on retirement on grounds of ill-health under Rule 12, the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph as if the member had remained in Relevant Service until Pensionable Age, Final Remuneration being computed as at the actual date of retirement;

- (iii) on retirement after Pensionable Age, a pension of the greatest of:
  - (I) the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph on the basis that the actual date of retirement was the member's Pensionable Age;
  - (II) the amount which could have been provided at Pensionable Age in accordance with sub-paragraph (a)(i) of this paragraph increased either actuarially in respect of the period of deferment or in proportion to any increase in the Index during that period; and
  - (III) where the member's total Relevant Service has exceeded 40 years, the aggregate of 1/60th of Final Remuneration for each year of Relevant Service before Pensionable Age (not exceeding 40 such years) and of a further 1/60th of Final Remuneration for each year of Relevant Service after Pensionable Age, with an overall maximum of 45 reckonable years.

Final Remuneration being computed in respect of (I) and (III) as at the actual date of retirement; or

- (i) on ceasing to be in Eligible Employment before Pensionable Age, a pension of 1/60th of Final Remuneration for each year of Relevant Service up to the date of such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased at the rate of 5 per cent compound for each complete year or, if greater, in proportion to any increase in the Index which has occurred between the date of such cessation and the date on which the pension begins to be payable and may be further increased so as to comply with the requirements of the Department of Social Security.
- (b) in respect of a New Tax Regime member or a 1989 member:
  - (i) on retirement at any time between attaining age 50 and attaining age 75, except before Pensionable Age on grounds of ill-health under Rule 22, a pension of 1/60th of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
  - (ii) on retirement at any time before Pensionable Age on grounds of ill-health under Rule 12 a pension of the amount which could have been provided at Pensionable Age in accordance with sub-paragraph (b)(i) of this paragraph, Final Remuneration being computed as at the actual date of retirement; or
  - (iii) on ceasing to be in Eligible Employment before attaining age 75, a pension of 1/60th of Final Remuneration for each year of Relevant Service up to the date of such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased at the rate of 5 per cent compound for each complete year or, if greater, in proportion to any increase in the Index which has occurred between the date the member ceased to be in Eligible Employment and the date on which the pension begins to be payable and may be further increased so as to comply with the requirements of the Department of Social Security.
  - (iv) Benefits for a New Tax Regime member or a 1989 member are further restricted to ensure that his total retirement benefit from the Scheme and from any Associated Scheme or Connected Scheme does not exceed a pension of 1/30th of the Permitted Maximum for each year of Relevant Service, subject to a maximum of 20/30ths.
  - (v) For the purpose of calculating the Aggregate Retirement Benefit or the total retirement benefit in sub-paragraphs (b)(i) to (iv) above, the pension

equivalent of any Lump Sum Retirement Benefit is 1/12th of its total cash value.

- (3) The member's Lump Sum Retirement Benefit shall not exceed:
- (a) in respect of a Pre 1987 member or a 1987 member:
    - (i) on retirement at or before Pensionable Age, except before Pensionable Age on grounds of ill-health under Rule 12, 3/80ths of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
    - (ii) on retirement on the grounds of ill-health under Rule 12 the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph as if the member had remained in Relevant Service until Pensionable Age, Final Remuneration being computed as at the actual date of retirement;
    - (iii) on retirement after Pensionable Age, the greatest of:
      - (I) the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph on the basis that the actual date of retirement was the member's Pensionable Age;
      - (II) the amount which could have been provided at Pensionable Age in accordance with sub-paragraph (a)(i) of this paragraph together with an amount representing interest thereon; and
      - (III) where the member's total Relevant Service has exceeded 40 years, the aggregate of 3/80ths of Final Remuneration for each year of Relevant Service before Pensionable Age (not exceeding 40 such years) and of a further 3/80ths of Final Remuneration for each year of Relevant Service after Pensionable Age, with an overall maximum of 45 reckonable years.

Final Remuneration being computed in respect of (I) and (III) as at the actual date of retirement; or

- (i) on ceasing to be in Eligible Employment before Pensionable Age, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Service prior to such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date the member ceased to be in Eligible Employment and the date on which the benefit is first paid but only if and to the same extent as the total benefits have been increased under sub-paragraph (b)(iii) of paragraph (2).
- (b) in respect of a New Tax Regime member or a 1989 member:
  - (i) on retirement at any time between attaining age 50 and attaining age 75, except before Pensionable Age on grounds of ill-health under Rule 22, 3/80ths of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
  - (ii) on retirement at any time before Pensionable Age on grounds of ill-health under Rule 12 the amount which could have been provided at Pensionable Age in accordance with sub-paragraph (b)(i) of this paragraph, Final Remuneration being computed as at the actual date of retirement;
  - (iii) on ceasing to be in Eligible Employment before attaining age 75, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Service prior to such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date

the member ceased to be in Eligible Employment and the date on which the benefit is first paid.

(4) The lump sum benefit (exclusive of any refund of the member's own contributions and any interest thereon) payable on the death of a member while in Relevant Service or (having left Relevant Service with a deferred pension) before the commencement of his pension, shall not, when aggregated with all like benefits under Associated Schemes, exceed the greater of:

- (i) £5,000; and
- (ii) four times the greater of the annual rate of the member's Remuneration at the date of death and his Final Remuneration.

(5) Any pension for a Dependant (excluding any pension resulting from Relevant Service by that Dependant), when aggregated with the pensions payable to that Dependant under all Associated Schemes, shall not exceed an amount equal to 2/3rds of the Aggregate Retirement Benefit:—

- (a) being paid to the member at the date of his death (including any pension increases given under the Rules); or
- (b) being a deferred benefit payable to the member at Pensionable Age in the case of a pre 1987 member or a 1987 member or between attaining age 50 and attaining age 75 in the case of a New Tax Regime member or a 1989 member (including any pension increases given under the Rules); or
- (c) prospectively payable to the member who dies in Relevant Service had he remained in Relevant Service up to pensionable Age at the rate of pay in force immediately before his death; or
- (d) prospectively payable to the member who dies in Relevant Service after Pensionable Age on the basis that he had retired on the day before he died or such greater amount as will not prejudice Approval.

If such pensions are payable to more than one person in respect of a member the aggregate of all such pensions payable in respect of him under this and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under sub-paragraph (a), (b), (c) or (d) above or such greater sum as will not prejudice Approval.

(6) In calculating any benefits under the Scheme deductions shall be made in respect of any Retained Benefits to such extent as the Board of Inland Revenue may from time to time require.

(7) The maximum amount of a pension ascertained in accordance with this Rule less any pension which has been commuted for a cash sum or the pension equivalent of any benefits in lump sum form and any pension surrendered to provide a Dependant's pension may be increased at the rate of 3 per cent compound for each complete year or such higher percentage as the Department of Social Security may from time to time prescribe by regulations or, if greater, in proportion to the increase in the Index since the pension commenced to be paid.

(8) The preceding provisions of this Rule shall be modified in their application to a member who is a Special Director or is or has been a Controlling Director as follows:

- (a) the amount of the maximum Aggregate Retirement Benefit in paragraph (2) and of the maximum Lump Sum Retirement Benefit in paragraph (3) shall be reduced, where necessary to ensure that Approval will not be prejudiced thereby, so as to take account of any corresponding benefits under either a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the 1988 Act or a personal pension scheme approved under Chapter IV of Part XIV of the 1988 Act; and
- (b) in relation to a member who is a Special Director at his Pensionable Age, where retirement takes place after Pensionable Age but not later than the member's 70th

birthday, sub-paragraphs (a)(iii)(II) and (III) of paragraph (2) and sub-paragraphs (a)(iii)(II) and (III) of paragraph (3) shall not apply, if the retirement is later than the attainment of that age the said sub-paragraphs shall apply as if the member's 70th birthday had been specified in the Rules as his Pensionable Age, so as not to treat as service after Pensionable Age any service before the member reaches the age of 70.

(9) The total contributions paid by a member in a year of assessment to the Scheme and any Relevant Scheme providing benefits by virtue of Relevant Service shall not exceed 15 per cent of the member's Remuneration for that year in respect of that Relevant Service.

(10) A member may elect to become a New Tax Regime member at any time prior to the date on which benefits commence, are bought-out or otherwise transferred from the Scheme or the attainment of age 75 whichever first occurs by serving written notice on the Committee in such form as they shall from time to time prescribe.

(11) In this Rule the following terms shall have the following meanings:—

- (a) "the 1988 Act" means the Income and Corporation Taxes Act 1988.
- (b) "Aggregate Retirement Benefit" means the aggregate of
  - (i) the member's pension under the Scheme and any Associated Scheme, and
  - (ii) the pension equivalent of the member's Lump Sum Retirement Benefit.
- (c) "Approval" means approval of the Scheme by the Board of Inland Revenue under Chapter I of Part XIV of the 1988 Act.
- (d) "Associated Employer" means an employer which is associated with another employer either by being controlled by that other or by both employers being controlled by a third party. Control has the meaning in Section 840 of the 1988 Act.
- (e) "Associated Schemes" means any Relevant Scheme providing benefits in respect of Relevant Service or in respect of a 1989 member or New Tax Regime member any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of Relevant Service.
- (f) "Connected Scheme" means any Relevant Scheme which is connected with the Scheme in relation to the member. For this purpose a Relevant Scheme is connected with the Scheme if:
  - (i) there is a period during which the member has been the employee of two Associated Employers;
  - (ii) that period counts under both schemes as a period in respect of which benefits are payable; and
  - (iii) the period counts under one scheme for service with one employer and under the other for service with the other employer.
- (g) "Controlling Director" means a director of an Employer who was before 6th April 1973 a Controlling Director (as defined in Section 624(3) of the 1988 Act) of that Employer.
- (h) "Final Remuneration" means the greater of:
  - (I) the highest remuneration upon which tax liability has been determined for any one of the five years preceding the Relevant Date being the aggregate of:
    - (i) the basic pay for the year in question; and
    - (ii) the yearly average over three or more consecutive years ending with the expiry of the corresponding basic pay year of any Fluctuating Emoluments Provided that Fluctuating Emoluments of a year other than the basic pay year may be increased in proportion to the increase in the Index from the last day of that

year up to the last day of the basic pay year. Remuneration that is received after the Relevant Date and upon which tax liability has been determined will be treated as a Fluctuating Emolument (providing it was earned or qualified for prior to the Relevant Date). In these circumstances it may be included provided the yearly average of three or more consecutive years begins no later than the commencement of the basic pay year; or

- (II) the yearly average of the total emoluments from the Employer which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any three or more consecutive years ending not earlier than ten years before the Relevant Date. Where such emoluments are received after the Relevant Date but are earned or qualified for prior to that date, they may be included Provided that in these circumstances the yearly average of three or more consecutive years begins no later than the commencement of the year ending with the Relevant Date.

Provided that:

- (i) remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares (except where the shares or right to or interest in shares which give rise to such an amount liable to tax under Schedule E had been acquired before 17th March 1987) or anything in respect of which tax is chargeable by virtue of Section 148 of the 1988 Act;
- (ii) in relation to a Special Director, Final Remuneration shall be the amount ascertained in accordance with sub-paragraph (II) above and sub-paragraph (I) above shall not apply;
- (iii) in relation to any other member whose Remuneration in any year subsequent to 5th April 1987 used for the purpose of calculating benefits has exceeded £100,000 (or such other figure as may be prescribed by the Treasury), Final Remuneration shall not exceed the amount ascertained in accordance with sub-paragraph (II) above and sub-paragraph (I) above shall not apply, unless the individual chooses to adopt £100,000 (or such other figure as may be prescribed by the Treasury);
- (iv) where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date the member's remuneration or total emoluments of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date but this proviso shall not apply to the calculation of the maximum Lump Sum Retirement Benefit in accordance with paragraph (3) of this Rule unless (and subject to proviso (v) below) the member's Aggregate Retirement Benefit is similarly increased beyond the maximum amount which could be paid but for this proviso and/or the proviso to sub-paragraph (I)(ii) above, and then only to the same proportionate extent;
- (v) for 1989 members or New Tax Regime members Final Remuneration shall not exceed the Permitted Maximum;
- (vi) for the purpose of calculating the maximum Lump Sum Retirement Benefit of a 1987 member, Final Remuneration shall not in any event exceed £100,000 (or such other figure as may be prescribed by the Treasury);
- (vii) an employee who remains, or is treated as remaining, in service but by reason of incapacity is in receipt of a much reduced remuneration, such as under a sick pay or permanent health insurance scheme, for more than ten years up to the Relevant Date, may calculate Final Remuneration under sub-paragraph (I) or (II) above with the Final Remuneration calculated at the cessation of normal pay and increased in accordance with the Index;

- (viii) the total amount of any profit related pay (whether relieved from income tax or not) may be classed as pensionable remuneration and treated as a Fluctuating Emolument;
- (ix) an early retirement pension in payment from the Employer may not be included in Final Remuneration;
- (i) “Fluctuating Emoluments” means any part of an employee’s earnings which are not paid on a fixed basis and are additional to the basic wage or salary. They include overtime, commission, bonuses or benefits in kind as long as they are assessable to tax under Case I or II of Schedule E and profit related pay. Directors’ fees may rank as Fluctuating Emoluments according to the basis on which they are voted.
- (ii) “Index” means the Index of retail prices published by the Department of Employment or any other index approved for the purposes of the Scheme by the Board of Inland Revenue.
- (iii) “Lump Sum Retirement Benefit” means the total value of all retirement benefits payable in any form other than non-commutable pension under the Scheme and any Associated Scheme.
- (iv) “New Tax Regime member” means a member who has given notice pursuant to paragraph (10) of this Rule.
- (v) “Permitted Maximum” means the figure specified in respect of the relevant year of assessment pursuant to Section 590C of the 1988 Act.
- (vi) “Pre 1987 member” means a member who was a member on 16 March 1987 or is deemed pursuant to regulations made by the Board of Inland Revenue to have been a member on that date and who, in either case, has not elected pursuant to paragraph (10) of this Rule to become a New Tax Regime member.
- (vii) “Relevant Date” means the date of retirement, leaving service in Eligible Employment or death as the case may be.
- (viii) “Relevant Scheme” means any other scheme approved or seeking approval under Chapter I of Part XIV of the 1988 Act and in respect of a New Tax Regime member or a 1989 member who is a Controlling Director also any retirement annuity contract or trust scheme approved under Chapter III of Part XIV or any personal pension scheme as approved under Chapter IV of Part XIV of the 1988 Act insofar as it provides benefits secured by contributions in respect of Relevant Service.
- (ix) “Relevant Service” means
  - (1) in relation to a New Tax Regime member or a 1989 member the aggregate of:
    - (a) all periods of service with an Employer and;
    - (b) all other periods which count in respect of any Associated Employment or any Connected Scheme;
  - (2) in relation to a Pre 1987 member or a 1987 member service with an Employer;
- (x) “Remuneration” means in relation to any year the aggregate of the total emoluments for the year in question from the Employer and which are assessable to income tax under Schedule E but excluding any amounts which arise from the acquisition or disposal of shares or any interest in shares or a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the 1988 Act Provided that for a New Tax Regime member or a 1989 member there shall be disregarded any emoluments in excess of the Permitted Maximum.
- (xi) “Retained Benefits” means any benefit payable on retirement or death to a member from:—

- (i) retirement benefits schemes approved or seeking approval under Chapter I of Part XIV of the 1988 Act or relevant statutory schemes as defined in Section 611A thereof;
  - (ii) funds to which Section 608 of the 1988 Act applies;
  - (iii) retirement benefits schemes which have been accepted by the Inland Revenue as “corresponding” in respect of a claim made on behalf of the member for the purposes of Section 596(2)(b) of the 1988 Act;
  - (iv) retirement annuity contracts approved under Chapter III of Part XIV of the 1988 Act;
  - (v) personal pension schemes approved under Chapter IV of Part XIV of the 1988 Act; or
  - (vi) transfer payments from overseas schemes held in a type of arrangement defined in sub-paragraph (i), (iv) or (v) above  
in respect of previous employments or periods of self-employment (whether alone or in partnership).
- (xii) “Special Director” means a member who, at any time on or after 17th March 1987 and in the last ten years before the Relevant Date has, in relation to the Employer, been both within the definition of a director in Section 612(1) of the 1988 Act and within paragraph (b) of Section 417(5) of that Act.
- (xiii) “1987 member” means a member who became a member on or after 17 March 1987 and before 1 June 1989, and any member deemed pursuant to regulations made by the Board of Inland Revenue to have become a member during that period who has not elected to become a New Tax Regime member pursuant to paragraph (10) of this Rule or a 1989 member pursuant to paragraph 29 of Part II of Schedule 6 to the Finance Act 1989.
- (xiv) “1989 member” means a member who became a member on or after 1st June 1989 and is not deemed pursuant to regulations made by the Board of Inland Revenue to have been a member at any time prior to that date or a 1987 member who has elected pursuant to paragraph 29 of Part II of Schedule 6 to the Finance Act 1989.

## **GUARANTEED MINIMUM PENSIONS**

**9A.—**(1) This Rule shall apply if any employment becomes contracted-out employment by reference to the Scheme, and it shall then override any other provisions of the Scheme, the Rules and the Schedules to the Rules (and in particular, but without prejudice to the generality of the foregoing, or sub-paragraph (a) of paragraph (3) and paragraph (6) of Rule 16, sub-paragraph (a)(i) of paragraph (2) and paragraph (5) of Rule 33, Rule 34 and paragraphs (4) and (5) of Rule 41) if and insofar as they are inconsistent with it.

(2) The words and expressions used in this Rule shall have the same meanings as in the Pensions Act.

(3) Subject to the provisions of paragraph (4) of Rule 19, any entitlement of a member and or alternatively, as the case may be, any other beneficiary concerned under the provisions of this Rule shall be inclusive of any entitlement under any other provisions of the Scheme, the Rules or the Schedules to the Rules other than any entitlement to equivalent pension benefits for the purposes of Part III of the National Insurance Act 1965 and the previous corresponding enactments.

(4) If an earner has a guaranteed minimum in relation to the pension provided for him under the Scheme in accordance with section 35 of the Pensions Act:—



- (a) the weekly rate of the pension from age 65 for a man and 60 for a woman shall not be less than the guaranteed minimum;
- (b) if the earner is a man and dies at any time leaving a widow, the weekly rate of the pension provided for her under the Scheme unless and until she re-marries under the age of 60 shall not be less than half that earner's guaranteed minimum;
- (c) if the earner is a woman and dies on or after 6th April 1989 leaving a widower, he shall be entitled, unless and until he re-marries under the age of 65, to a pension at a weekly rate of not less than half of that part of the earner's guaranteed minimum, which is attributable to earnings for the tax year 1988/89 and subsequent tax years.

(4A) The guaranteed minimum pensions referred to in paragraph (4) shall, insofar as they are attributable to earnings in the tax years from (and including) 1988/89, be increased on becoming payable in accordance with Section 37A of the Pensions Act and to the extent of any orders made thereunder.

(5) Commencement or payment of an earner's guaranteed minimum pension shall be postponed or suspended as the case may be for any period during which he is under the age of 70 for a man or 65 for a woman and is in employment to which the Scheme applies.

(6) Where the commencement or payment of an earner's guaranteed minimum pension is postponed or suspended for any period in accordance with paragraph (5) of this Rule, his guaranteed minimum pension shall be increased to the extent, if any, specified in Sections 35(6), (6A) and (6B) of the Pensions Act.

- (a) A guaranteed minimum pension payable by virtue of this Rule shall be capable of being forfeited, terminated or suspended during the life-time of the person to whom it is payable in accordance with sub-paragraph (b) of paragraph (4) or paragraph (5) of this Rule or otherwise in such circumstances as are for the time being prescribed by Regulations made under section 39(4)(b) of the Pensions Act but in no other circumstances.
- (b) The liability of the Scheme to pay any such guaranteed minimum pension shall during that lifetime be capable of being terminated or suspended in such circumstances as are from time to time permitted or otherwise provided for by the Pensions Act but in no other circumstances.
- (c) Notwithstanding anything in Rule 23, where an earner who has become entitled to a guaranteed minimum pension by virtue of this Rule re-enters employment to which the Scheme applies his rights to such pension shall not be terminated but shall have effect subject to the provisions of paragraphs (5) and (6) of this Rule.
- (d) Section 48 of the Pensions Act shall apply in relation to any guaranteed minimum pension payable by virtue of this Rule.

(8) If an employer or from 6th April 1987 the Committee of Management makes an election under section 42 of the Pensions Act he or they shall be bound to pay a Contributions Equivalent Premium with a view to extinguishing accrued rights to guaranteed minimum pensions or a guaranteed minimum pension in any case where the Pensions Act so permits Provided that—

- (a) The employer or the Committee of Management (as the case may be) may but shall not be bound so to do—
  - (i) where the amount of the Contributions Equivalent Premium would not exceed £5; or
  - (ii) in any case for the time being prescribed for the purposes of section 43(4) of the Pensions Act, but

(b) In respect of any of the cases mentioned in proviso (a)(ii) above the employer shall not discriminate between different earners falling within the same class of case.

(9) If a state scheme premium is paid in respect of a member under section 43(4) of the Pensions Act and the Scheme's liability to provide guaranteed minimum pension benefits in respect of such member is cancelled, the benefits in respect of the member under the Scheme shall be reduced accordingly, and any ancillary benefits (contingent on death or otherwise) which are related to the amount of guaranteed minimum pension benefits concerned shall cease to be payable except insofar as the Principal Employer in their discretion decide otherwise.

#### **CESSATION OF MEMBERSHIP**

**9B.** If a member exercises his right to discontinue his membership of the Scheme, in accordance with the provisions of Rule 1A his service in Eligible Employment and Contributing Service shall be deemed for the purposes of the Rules as having terminated on the date of such discontinuance in accordance with the provisions of Rule 15. This Rule shall override any other provisions of the Scheme, the Rules and the Schedules to the Rules insofar as they are inconsistent with it.

#### **NORMAL RETIREMENT**

**10.—**(1) Subject as hereinafter provided, benefit shall be payable under this Rule to a member on Retirement from Eligible Employment on or after 6th April 1975 on or after attaining Pensionable Age *and before the Transfer Date*.

(2) Subject as hereinafter provided, the benefit payable under this Rule to a member having Qualifying Service of 5 years or more shall be a pension comprising the aggregate of such of the following weekly amounts as shall be applicable—

- (aaa) A weekly amount consisting of one-sixtieth of the amount of the member's Pensionable Earnings for each complete year of the member's Contributing Service and one-fifty-second part of one-sixtieth of the amount of the member's Pensionable Earnings for each week of such Contributing Service not thus taken into account Provided that the maximum period of Contributing Service to be taken into account for the purpose of this sub-paragraph in relation to a member shall be forty complete years with the option of electing to take a lump sum payment in accordance with the provisions of paragraph (5) of this Rule;
- (c) A weekly amount consisting in respect of the periods specified in column (2) and any subsequent column of the Seventh Schedule of the amounts shown in those columns respectively against item (1) of that Schedule for each complete year of the member's service in Eligible Employment during the period from 6th January 1964 to 5th April 1975 and of the amounts so shown divided by 52 for each week of such service not thus taken into account.
- (d) A weekly amount consisting in respect of the periods specified in column (2) and any subsequent column of the Seventh Schedule of the amounts shown in those columns respectively against item (2) of that Schedule for each complete year of the member's service in Eligible Employment during the period from 3rd April 1961 to 5th January 1964 and of the amounts so shown divided by 52 for each week of such service not thus taken into account.
- (e) If the member has units standing to his credit, representing service before 3rd April 1961, a weekly amount consisting in respect of the periods specified in column (2) and any subsequent column of the Seventh Schedule of the amounts shown in those columns respectively against item (3) of that Schedule for every such unit.
- (f) If the total of:—

- (i) The aggregate of the weekly amounts ascertained in accordance with sub-paragraphs (a) to (e) of this paragraph; and
- (ii) the weekly rate of any graduated pension payable to the member under the Social Security Legislation so far as such pension is attributable to the member's having been treated under Section 58 of the National Insurance Act as having paid graduated contributions to the National Insurance Fund in respect of service with an Employer in Eligible Employment or service in respect of which the member has paid contributions to the Staff Scheme; and
- (iii) the weekly amount of any other pension payable to the member under the Rules (other than Rule 9A), so far as such pension is in respect of service in Eligible Employment on or after 3rd April 1961; and
- (iv) in the case of a member who, having been a contributor to the Staff Scheme, transfers to Eligible Employment on or after 3rd April 1961, the weekly amount of any pension payable to the member under the Staff Scheme;

is in respect of the periods specified in column (2) and any subsequent column of Part I of the Fifth Schedule, less than the weekly amounts shown in those columns respectively against item (2) of Part I of that Schedule in relation to the member's period of Qualifying Service, the difference between the said total and that amount.

(3) Subject as hereinafter provided, the benefit payable under this Rule to a member having Qualifying Service of less than 5 years shall be a pension comprising the aggregate of such of the following weekly amounts as shall be applicable—

- (a) a weekly amount calculated in accordance with sub-paragraphs (aaa), (c) and (d) of paragraph (2) of this Rule; and
- (b) If the member has units standing to his credit, representing service before 3rd April 1961, a weekly amount representing the weekly pension payable to the member Actuarially Equivalent to the lump sum (if any) of the amount shown in the Second Schedule according to the number of units standing to his credit, with Compound Interest at 3% per annum from 3rd April 1961 to the date on which the member attains Pensionable Age.

(5) A member whose service in Eligible Employment terminates on or after 1st March 1992 may prior to his pension becoming payable, elect to commute within the Inland Revenue Limits up to 25% of his pension for a lump sum payment on the basis of £9 for each £1 of pension commuted.

## **DEFERRED RETIREMENT**

**11.**—(1) Subject as hereinafter provided, a member who on or after 1st April 1990 remains in Eligible Employment after attaining Pensionable Age shall on Retirement from Eligible Employment be entitled to receive the same benefits in all respects as he would have received if he had retired on attaining Pensionable Age but increased by such amount as the Committee of Management acting on the advice of the Actuary may determine.

(1A) *A member who attained Pensionable Age before the Transfer Date and who is in Eligible Employment on the day immediately before the Transfer Date and does not retire on that day shall be deemed to retire on that day and shall receive benefits calculated in accordance with Rule 10 (increased with effect from the Transfer Date in accordance with the provisions of this Rule if appropriate).*

(2) No increase in benefit shall be provided by this Rule unless the member's Retirement from Eligible Employment shall be deferred by at least one complete year after Pensionable Age and thereafter shall be increased by such further amount as the Committee of Management

acting on the advice of the Actuary may determine in respect of each complete week of deferment.

- (3) In calculating any increase of benefit under this Rule—
- (a) the period of deferment in relation to a member shall be deemed to commence on the date on which the member attains Pensionable Age and to terminate on the date on which his service in Eligible Employment terminates or is deemed to terminate; and
  - (b) not more than five years of deferment shall be taken into account in relation to any member.

(4) A member who shall have attained either the age of 62 on or before 1st April 1990 or the age of 60 on or before 1st March 1992 and who shall continue in Eligible Employment after those respective dates shall be entitled on the termination of his service in Eligible Employment to receive a pension calculated in accordance with paragraph (2) of Rule 10 but increased in accordance with the provisions of this Rule.

## **INCAPACITY RETIREMENT**

**12.—**(1) Subject as hereinafter provided, benefit shall be payable under this Rule to a member who retires from Eligible Employment on or after 6th April 1975 and before attaining Pensionable Age *and before the Transfer Date* if he is certified by the Principal Employer's Medical Adviser to be so incapacitated as a result of accident or ill-health that he is unable and likely to remain unable to undertake any form of employment that his Employer (other than a Recognised Trade Union) is able to offer him or if there is no such form of employment the form of employment in Eligible Employment upon which he was last engaged.

(1A) Subject as hereinafter provided—

Benefit shall be payable under paragraph (2) of this Rule to a member who satisfies the requirements specified in paragraph (1) of this Rule if—

- (i) he has Qualifying Service of 5 years or more; or
- (ii) the Committee of Management in their discretion determine that he shall be treated for the purposes of this Rule as if he had 5 years' Qualifying Service; and

(1B) *Notwithstanding paragraph (1) of this Rule and subject as hereinafter provided benefits shall be payable under this Rule to a deferred pensioner who having become a contributing member of IWS-MPS and as a consequence of incapacity while he remains such a contributing member becomes eligible to receive and so receives benefit under that rule or those rules of that scheme as correspond to this Rule 12.*

(2) Subject as hereinafter provided, the benefit under this paragraph shall be a pension comprising the aggregate of such of the weekly amounts as are specified in paragraph (2) of Rule 10 and payable from the date of the member's Retirement from Eligible Employment. The provisions of sub-paragraph (f) of paragraph (2) of Rule 10 shall apply to such pension but if the member has less than five years' Qualifying Service he shall be deemed to have five years' Qualifying Service.

(3) In any case where the Principal Employer's Medical Adviser is unable to certify that the member's incapacity is likely to be permanent, the Committee of Management may in their discretion make a provisional award of a pension, calculated as provided in paragraph (2) of this Rule, for such period and subject to such conditions as the Committee of Management may determine, but without prejudice to his rights under any other provisions of the Rules in respect of any period after the termination of his service in Eligible Employment during which such pension is not payable.

(5) A member entitled to benefit under this Rule and who retires from Eligible Employment on or after 1st March 1992 may elect in accordance with the provisions of paragraph (5) of Rule 10.

#### **INCAPACITY RETIREMENT—SPECIAL CASES**

**13.—**(1) Subject as hereinafter provided a member shall be entitled to a pension under this Rule on retirement from Eligible Employment on or after 6th April 1975 *and before the Transfer Date*—

- (a) If he satisfies the conditions specified in paragraph (1) of Rule 15 of the Rules as they had effect immediately before 6th April 1975; and
- (b) Where—
  - (i) he retires from Eligible Employment on or after 6th April 1978; and
  - (ii) he does not upon such Retirement become entitled to benefit under Rule 27 or any benefit payable in lieu thereof by virtue of paragraph (2) of that Rule; and
  - (iii) his period of contracted-out employment by reference to the Scheme, within the meaning of section 42(1) of the Pensions Act, is less than five years;if he elects for benefit under this Rule.

(2) The benefit payable under this Rule shall be calculated and paid in accordance with the provisions of the said Rule 15, save that—

- (a) For the reference to the amount of £1.20 specified in paragraph (4) of the said Rule there shall be substituted in respect of the periods specified in column (2) and any subsequent column of Part I of the Fifth Schedule references to the amounts shown in those columns respectively against item (3) of Part I of that Schedule;
- (b) For each reference in the said Rule to a week before or a week after the member retires, or is deemed to retire, for the purposes of the National Insurance Act, there shall be substituted a reference to a week before or a week after, as the case may be, the date upon which the member attains Pensionable Age;
- (c) The references to Rules 10, 10(1)(d), 10(1)(f), 14(3)(c) and 14(5)(b) shall be construed as references to the provisions so designated in the Rules as they had effect immediately before 6th April 1975;
- (d) For the references to Rule 14(3) and to Rule 17 respectively there shall be substituted references to Rule 12(4) and to sub-paragraph (b) of paragraph (4) of Rule 9A, and Rule 16 of the Rules as they have effect at any time on and after 6th April 1975; and
- (e) For the avoidance of doubt it is declared that—
  - (i) any reference in the said Rule 15 to the Industrial Injuries Scheme shall be construed as including references to Rule 14A and to any provision of the Industrial Injuries Deed providing for payment of benefits in respect of those which would have been payable under the Industrial Injuries Scheme but for its termination; and
  - (ii) any reference in the said Rule 15 to supplementary disablement pension under the Industrial Injuries Scheme shall be construed as including references to any pension payable under Rule 14A or payable pursuant to Clause 3 of the Industrial Injuries Deed in respect of any supplementary disablement pension which would have been payable under the Industrial Injuries Scheme but for its termination.

## INCAPACITY RETIREMENT—INDUSTRIAL DISABLEMENT

14.—(1) Where a member—

- (a) Retires from Eligible Employment on or after 6th April 1975 *and before the Transfer Date*; and
- (b) Satisfies the requirements specified in paragraph (1) of Rule 12; and
- (c) Suffers from loss of physical or mental faculty resulting from an Industrial Accident which occurs, or an Industrial Disease which develops, on or after 30th March 1970; and
- (d) Is, at the time such accident occurs or Industrial Disease develops, a member of the Scheme who has not given notice and ceased to pay Normal Contributions pursuant to paragraph (1) of Rule 1A or a member of the Industrial Death and Retirement Scheme,

the provisions of this Rule shall apply in relation to him.

- (a) Where the provisions of this Rule apply in relation to a member, he shall be entitled to a pension under this Rule and not to a pension under Rule 12 or Rule 13 in respect of any period not earlier than his Retirement from Eligible Employment during which the degree of disablement resulting from the loss of faculty referred to in sub-paragraph (c) of paragraph (1) of this Rule will be treated, for the purposes of the provisions of the Social Security Legislation relating to industrial injuries and industrial diseases, as not less than 50% Provided that where the member is suffering also from loss of faculty as a result of a Colliery Accident or Colliery Disease, then if he so opts by notice in writing to the Pensions Officer within three Months after the option date, the degree of disablement resulting from such loss shall be taken into account for the purpose of this paragraph with effect from the option date.
- (b) For the purposes of this paragraph “the option date” means a date on or after the member’s Retirement from Eligible Employment being the earliest date with effect from which, in the circumstances then existing, he could become entitled to a pension by exercising an option under this paragraph.

(3) The benefit payable under this Rule shall be a pension consisting of whichever shall be applicable of the following weekly amounts—

- (a) For the period until the date on which the member attains Pensionable Age whichever shall be the greater of—
  - (i) the weekly amount consisting in respect of the periods specified in column (2) and any subsequent column of the Fifth Schedule of the amounts shown in those columns respectively against item (4) of Part I of that Schedule and against the degree of the member’s disablement which, for the time being, is taken into account for the purpose of paragraph (1) of this Rule, disregarding any degree of disablement in respect of which the member has received a supplementary disablement gratuity under the Industrial Injuries Scheme or has received benefit pursuant to Clause 3 of the Industrial Injuries Deed in respect of any supplementary disablement gratuity to which he would have been entitled under the Industrial Injuries Scheme but for its termination, increased for any week in respect of which he is in receipt of an allowance under section 63 of the Social Security Act by the weekly amount consisting in respect of the periods specified in column (2) and any subsequent column of the Fifth Schedule of the amounts shown in those columns respectively against item (5) of Part I of that Schedule; and
  - (ii) the weekly amount of the pension which would apart from this Rule be payable to him for such period under Rule 12 or Rule 13; and

- (b) For the period beginning with the date on which the member attains Pensionable Age whichever shall be the greater of—
  - (i) the rate mentioned in sub-paragraph (a) of this paragraph; and
  - (ii) a weekly amount equal to the aggregate of the weekly amounts specified in sub-paragraphs (a)(i) and (a)(ii) of this paragraph but not exceeding the aggregate of the weekly amount specified in sub-paragraph (a)(i) of this paragraph and a weekly amount of £1.50.

(4) The degree of disablement taken into account for the purposes of this Rule shall not exceed 100%, nor shall it exceed the difference between 100% and the degree of disablement in respect of which the member is entitled for the time being to a supplementary disablement pension under the Industrial Injuries Scheme, a pension under Rule 14A or benefit payable pursuant to Clause 3 of the Industrial Injuries Deed in respect of any supplementary disablement pension to which he would have been entitled under the Industrial Injuries Scheme but for its termination.

(5) If *before the Transfer Date* a member to whom a pension is payable under this Rule returns to Eligible Employment or to other regular whole-time employment with the Principal Employer or a Small Mine Licensee, he shall not be entitled to a pension under this Rule in respect of any period after such return, but this shall not prevent his becoming entitled to such a pension in respect of a subsequent period if he retires again from Eligible Employment and in respect of such Retirement satisfies the requirements of paragraph (1) of this Rule.

#### **DISABLEMENT—COLLIERY ACCIDENTS AND DISEASES**

**14A.**—(1) Where at any time on or after 1st January 1978—

- (a) A pension has become payable to a member or other person under any other provision of the Rules (including the Rules as they had effect at any time before that date); and
- (b) But for the termination of the Industrial Injuries Scheme a supplementary disablement pension would have been payable to him under that Scheme;
- (c) No commutation of benefits otherwise payable to him has taken place under or in pursuance of Clause 4 of the Industrial Injuries Deed;

he shall if he so elects *before the Transfer Date* be entitled to receive as a pension under this Rule the amount of the supplementary disablement pension to which he would have been entitled under the Industrial Injuries Scheme but for its termination.

(2) For the purposes of paragraph (1) of this Rule “supplementary disablement pension” means a pension which was or would but for the termination of the Industrial Injuries Scheme have been supplementary disablement pension within the meaning of that Scheme.

#### **OPTIONAL EARLY RETIREMENT**

**14B.**—(1) Subject to the provisions of paragraphs (4) and (5) of this Rule, a member whose service in Eligible Employment terminates on or after 1st March 1992 shall be entitled to exercise the option conferred by this Rule.

(2) A member shall have the option exercisable by giving written notice to the Committee of Management at any time after the date of termination of service in Eligible Employment and prior to attainment of Pensionable Age of receiving a benefit under this Rule prior to Pensionable Age Provided that no such option shall be exercisable before the member shall attain the age of 50 and no such benefit shall be payable with effect from a date earlier than the date of the member’s fiftieth birthday. Any such notice may be revoked by a member

giving written notice to that effect to the Committee of Management at any time prior to the commencement of payment of the benefit under this Rule.

(3) The benefit payable under this Rule shall be calculated in accordance with the provisions of Rule 10 but the amount payable will be of such reduced amount as the Committee of Management, on the advice of the Actuary *and before the Transfer Date* with the agreement of the Principal Employer, shall determine having regard to its earlier commencement Provided that no such reduction shall be applied to the benefit payable to any member who shall have attained the age of 59 when his or her service in Eligible Employment terminates.

(4) Benefit shall not be payable under the provisions of paragraph (3) of this Rule unless the Committee of Management, on the advice of the Actuary, are satisfied that the pension payable to the member at State Pensionable Age will not be less than the guaranteed minimum pension payable under Rule 9A.

(5) A member shall not be entitled to exercise the option conferred by this Rule if upon termination of service in Eligible Employment the member becomes entitled to benefit under Rule 12, 13 or 14 or if the member has given written notice pursuant to Rule 1A.

#### **LEVELLING OPTION**

**14C.** Subject as hereinafter provided, at the option of a member who is in Eligible Employment and has attained the age of 59 or more and who has become entitled to benefits under Rule 10 (whether or not increased under Rule 11), Rule 12 or Rule 14B, the Committee of Management may determine that the amount of such member's benefits shall until State Pensionable Age be increased and thereafter be reduced by such amounts as may be determined by the Committee of Management after consulting the Actuary *and before the Transfer Date* as may be approved by the Principal Employer and based on the amount of the single person's retirement pension payable by the State under the provisions of the Social Security Act 1975 at the time of the determination Provided that

- (i) The member shall notify the Committee of Management in writing of his intention to exercise the option contained in this Rule at the time the pension becomes payable.
- (ii) Any exercise of the option contained in this Rule shall be irrevocable.
- (iii) The rates of reduction and increase determined by the Committee of Management to be applicable to a member who has exercised the option contained in this Rule shall be fixed and shall remain unaltered despite any increase in the rates of pension save that the Committee of Management shall in the case of a member who has retired before Pensionable Age having exercised the said option and who subsequently re-enters service in Eligible Employment adjust the rates applicable to his normal benefits on his subsequent retirement and the benefits payable on attaining Pensionable Age will be actuarially adjusted in respect of the first retirement.
- (iv) The Committee of Management may at their discretion require a member wishing to exercise the option contained in this Rule to provide evidence of normal health having regard to the age of the member as may be required *before the Transfer Date* by the Principal Employer, *or on and after the Transfer Date* by the Principal Employer's Medical Adviser.
- (v) The option contained in this Rule shall be exercisable only if in the opinion of the Actuary the pension payable after the member's State Pensionable Age shall not be less than the guaranteed minimum pension payable under Rule 9A.
- (vi) For the purpose of calculating benefits payable on the death of a member any option exercised under this Rule shall be ignored.



## TERMINATION OF SERVICE

15.—(1) Subject as hereinafter provided, benefit shall be payable under this Rule to any member whose service in Eligible Employment terminates otherwise than by reason of death and who does not upon such termination become entitled to benefit under any of the preceding Rules (other than Rule 9A).

- (a) Benefit shall be payable under this paragraph to a member whose service in Eligible Employment terminates on or after 6th April 1975—
  - (i) if the member has Qualifying Service of 5 years or more and the termination of his service in Eligible Employment is not due to and does not arise out of his misconduct or his voluntary withdrawal; and
  - (ii) if at the date of such termination the member has attained the age of 50.
- (b) The benefit payable under this paragraph shall be a pension consisting of a weekly amount calculated in accordance with paragraph (2) of Rule 10.
- (c) The pension payable under this paragraph shall be payable from the date on which the member attains Pensionable Age.
- (a) Benefit shall be payable under this paragraph to a member whose service in Eligible Employment terminates on or after 6th April 1975—
  - (i) if he does not become entitled to benefit under any of the preceding provisions of this Rule; and
  - (ii) if *either*:—
    - (I) the member has Qualifying Service of two years or more, *or*
    - (II) *the termination of his service in Eligible Employment takes place on the Transfer Date and the member becomes a member of IWS — MPS for future service benefits with effect from the day after the Transfer Date.*
- (b) The benefit payable to a member under this paragraph shall be a pension consisting of a weekly amount calculated in accordance with paragraph (3) of Rule 10 payable from the date on which the member attains Pensionable Age.
- (a) Benefit shall be payable under this paragraph to a member whose service in Eligible Employment terminates on or after 6th April 1978—
  - (i) if he does not become entitled to benefit under any of the preceding provisions of this Rule or to benefit under Rule 27 or any benefit payable in lieu thereof by virtue of paragraph (2) of that Rule; and
  - (ii) if he has Qualifying Service of less than two years.
- (b) The benefit payable to a member under this paragraph shall consist of the following:
  - 
  - (i) a refund of the total amount of the contributions payable by or in respect of him under Rule 3 or Rule 4 in relation to any period of his Contributing Service; and
  - (ii) where his service in Eligible Employment commenced prior to 6th April 1975 the lump sum (if any) and a refund of his contributions (if any) in accordance with the Rules as they had effect immediately before 1st April 1990.
- (c) Where benefit is payable to any person under this paragraph, and a Contributions Equivalent Premium falls to be paid in respect of him the amount of benefit payable under subparagraph (b)(i) of this paragraph shall, pursuant to Section 47(7) of the Pensions Act, be reduced by the amount (if any) which the Employer is entitled to recover pursuant to Section 47 of the Pensions Act.

(7) A member entitled to benefit under this Rule and whose service in Eligible Employment terminates on or after 1st March 1992 may elect in accordance with the provisions of paragraph (5) of Rule 10.

(8) Where a member has attained the age of 60 on 1st March 1992 but payment of his pension under this Rule has not commenced, his pension under this Rule shall be payable with effect from that date unless he was entitled to receive a pension from an earlier date under the Scheme and Rules as they had effect immediately prior to 1st March 1992.

## **WIDOWS' BENEFIT**

**16.**—(1) Subject to the provisions of this Rule and Rule 19, where any member or other person (in this Rule called “the deceased”) dies on or after 6th April 1975 benefit shall be payable to his Widow by reference to him under and in accordance with this Rule.

(2) Benefit shall be payable under paragraph (3) of this Rule by reference to the deceased if any one or more of the following conditions are satisfied—

- (a) He dies while he is in Eligible Employment; or
  - (b) He has prior to the date of his death retired from Eligible Employment in such circumstances that a pension is or would had he survived have become payable to him under any of Rule 10 (whether or not increased under Rule 11), Rule 12, Rule 13, Rule 14, Rule 14A, Rule 14B or either of paragraph (2) of Rule 15; or
  - (c) He is a member whose service in Eligible Employment terminates on or after 6th April 1989 in such circumstances that a pension is or would had he survived have become payable to him under paragraph (4) of Rule 15.
- (a) The benefit payable under this paragraph shall be a pension calculated in accordance with paragraphs (4) and (5) of this Rule.
- (b) Where a person (other than any such person as is referred to in sub-paragraph (b) of paragraph (1) of Rule 19) marries or re-marries, as the case may be, after the date of the deceased’s death but before 1st January 1979, no pension shall be payable to her under this paragraph by reference to the deceased after the date of such marriage or re-marriage.
- (a) Subject to paragraph (6) of this Rule, the weekly amount of the pension payable under paragraph (3) of this Rule by reference to the deceased shall consist of either—
- (i) Where the deceased dies whilst he is Eligible Employment before attaining Pensionable Age two-thirds of the amount of the weekly pension which would had he retired on the day before the date of his death have been payable to him at the date of his death under Rule 12; or
  - (ii) where the deceased dies whilst he is Eligible Employment and on or after attaining Pensionable Age, two-thirds of the amount of the weekly pension which would had he retired on the day before the date of his death have been payable to him at the date of his death under Rule 10 and, if applicable, Rule 11; or
  - (iii) where at the time of his death he was in receipt of a pension, two-thirds of the amount of the pension he was receiving at the date of his death ignoring any reduction in his pension arising from the exercise of the option contained in Rule 14B; or
  - (iv) where at the time of his death no pension is payable to the deceased, two-thirds of the amount of the pension which would have become payable had he attained Pensionable Age on the day before the date of his death.

- (b) Notwithstanding any provision of sub-paragraph (a) of this paragraph, where no Supplementary Fatal Injury Benefit is payable by reference to the deceased the weekly amount of the pension payable under paragraph (3) of this Rule (otherwise than solely by virtue of sub-paragraph (e) of paragraph (2) of this Rule) by reference to the deceased in respect of any period after 31st December 1978 shall not be less than a weekly amount, in respect of the period specified in column (2) and any subsequent column of the Fifth Schedule, equal to the amount shown in those columns respectively against item (5A) Part I of that Schedule.
- (5) Notwithstanding any other provisions of this Rule, where a member retires from Eligible Employment or his service in Eligible Employment terminates on or after 6th April 1989, the amount of any pension payable by reference to him under paragraph (3) of this Rule shall not be less than one half of the guaranteed minimum pension payable under Rule 9A.
- (6) Where the deceased dies leaving a Widow, so much of any pension payable under paragraph (3) of this Rule by reference to him as notwithstanding Rule 19 is payable to such Widow and is payable solely by virtue of sub-paragraphs (a) or (b) of paragraph (2) of this Rule may at the discretion of the Committee of Management be withheld—
- (a) If the deceased retires from Eligible Employment or his service in Eligible Employment terminates before 6th April 1978, and his death occurs within twelve Months after his marriage to such Widow, unless his death is through accident or through some other cause which could not reasonably have been foreseen at the time of such marriage; or
- (b) If the deceased retires from Eligible Employment or his service in Eligible Employment terminates on or after 6th April 1978, and his marriage to such Widow takes place after such Retirement or termination and within six Months before his death.
- (7) In addition to any benefit payable under paragraph (3) of this Rule—
- (a) If before the date of his death the deceased retires in such circumstances that a pension is payable to him under Rule 10 (whether or not increased under Rule 11) or Rule 14B, or his service in Eligible Employment terminates on his being made redundant and a pension becomes payable to him under paragraph (2) or (4) of Rule 15, and he dies before the fifth anniversary after the date upon which such pension first becomes payable to him, lump sum benefit shall be payable by reference to him of an amount equal to the weekly pension which is payable to him at the date of his death multiplied by the number of weeks (a fraction of a week being treated as a whole week) between the deceased's death and the fifth anniversary of the date when such pension first becomes payable to him;
- (b) If before the date of his death the deceased retires in such circumstances that a pension is or would had he survived have become payable to him under any one or more of Rule 12, Rule 13 and Rule 14 and he dies before, on or within five years after the date when such pension, or if more than one the first of such pensions to become payable to him, first becomes so payable, lump sum benefit shall be payable by reference to him of an amount equal to the excess of the greatest amount or total amount of the weekly pensions which at any time have been or would had he survived have been or become payable to him under any one or more of Rules 12, 13 and 14 (not taking into account any annual increases by reference to changes in the Index of Retail Prices provided for by Rule 26 falling to be made after the date of his death), multiplied by 260, over the total of the amounts (if any) by way of pension which have been paid or become payable to the deceased under such one or more of Rules 12, 13 and 14 as shall have been applicable.

- (a) In addition to any other benefit payable under this Rule, lump sum death in service benefit shall be payable under this paragraph by reference to the deceased if he dies while he is in Eligible Employment.
- (b) The amount of the lump sum death in service benefit payable under this paragraph shall be whichever one of the following applicable amounts is the greatest—
  - (i) an amount of 156 times the amount of any weekly pension which would have been or become payable to the deceased referred to in and as calculated for the purposes of paragraph (4) of this Rule;
  - (ii) the aggregate of the amount specified in Part I of the Fourth Schedule in relation to this paragraph, and the amount of any benefit payable under sub-paragraph (a) of paragraph (6) of Rule 20 by reference to the deceased; and
  - (v) where the deceased dies on or after 1st March 1992 an amount of 104 times the amount of his Pensionable Earnings.
- (a) In addition to any other benefits payable under this Rule, a lump sum death benefit shall, subject to the provisions of paragraph (10) of this Rule, be payable under this sub-paragraph by reference to the deceased if he satisfies the conditions specified in paragraphs (2) or (4) of Rule 15 and dies before the pension becomes payable to him under the provisions of either of those paragraphs.
- (b) The amount of the lump sum death benefit payable under this paragraph shall be 156 times the amount of the weekly pension which would have been payable to the deceased had his pension become payable on the day prior to the date of his death and on the basis that he made no election in accordance with the provisions of paragraph (5) of Rule 10 Provided that if the benefit payable under the Scheme and Rules as they had effect immediately prior to 1st March 1992 would be greater than the lump sum death benefit payable under this paragraph the former benefit shall be payable.
- (a) Subject as hereinafter provided where after Retirement from Eligible Employment on or after 6th April 1975 the deceased dies as a result of an Industrial Accident or at premises on which persons are in Eligible Employment, lump sum industrial death benefit shall be payable to his Widow under this paragraph by reference to him if one or both of the following conditions are satisfied—
  - (i) the deceased's death ensues within 3 months of the Industrial Accident of which it is the result; or
  - (ii) that death ensues without the deceased having ceased to be incapable of work.
- (b) The amount of the lump sum industrial death benefit payable under this paragraph shall be whichever shall be applicable of the following amounts—
  - (i) if the deceased retires before attaining Pensionable Age an amount of 156 times the amount of the weekly pension which is payable to him at the date of his death under Rule 12, or, which would had he survived have become payable to him under that Rule Provided that for the purposes of this sub-paragraph it shall be deemed that a pension is or would have become payable to him under that Rule and that Rule notwithstanding that by virtue of the Rules any pension might be or have become payable to him under some other Rule and Provided also that, in determining the amount of any weekly pension which would had he survived have become payable to him under Rule 12 only such annual increases (if any) by reference to changes in the Index of Retail Prices provided for by Rule 26 as shall have fallen to be made on or before the date of the deceased's death shall be taken into account;

- (ii) if the deceased retires on or after attaining Pensionable Age, an amount of 156 times the amount of the weekly pension payable to him at the date of his death under Rule 10 (and if applicable increased under Rule 11);
  - (iii) the amount specified in Part I of the Fourth Schedule in relation to this paragraph, if that amount, taken together with the amount of any benefits payable under sub-paragraph (a) of paragraph (6) of Rule 20 by reference to the deceased, is greater than whichever shall be applicable of the amounts specified in sub-paragraph (b)(i) and (ii) above.
- (c) The amount of any lump sum industrial death benefit payable to any person under this paragraph by reference to the deceased shall be applied to reduce or extinguish the amount of any lump sum death benefit payable under paragraph (9) of this Rule by reference to the deceased.
- (11) Where, apart from this paragraph, any person would for the time being be entitled to a pension or pensions under the provisions of this Rule or Rule 19 by reference to more than one member or other person, she shall be entitled only to such pension as is the larger or largest taking into account any increase under Rule 26.
- (12) The provisions of Rule 24 shall apply in relation to any lump sum benefits referred to in that Rule and payable under this Rule.
- (13) For the purposes of determining the amount of any pension or lump sum death payment payable under this Rule any option exercised under Rule 14C shall be ignored.

#### **WIDOWS' BENEFIT—SUPPLEMENTARY PROVISIONS**

- 19.**—(1) Paragraph (3) of this Rule shall apply where at the date of the death of a member or other person (in this paragraph and paragraphs (2) and (3) of this Rule called “the deceased”) there is living any person (in this Rule called an “alternative beneficiary”) who does not upon such death become the deceased’s Widow but who, if the deceased is a man and retires from Eligible Employment or his service in Eligible Employment terminates on or after 6th April 1978, is a Dependant in relation to him, and—
- (a) Where the deceased dies on or after 6th April 1975, is at the date of his death living with the deceased as his wife and being maintained by him; and or alternatively
  - (b) Where the deceased dies on or after 6th April 1975, has at the date of his death the care and maintenance of any Child of the deceased to whom benefit is payable under Rule 20 by reference to the deceased; and or alternatively
  - (c) Where the deceased dies on or after 1st January 1979, is being wholly or mainly maintained by him at the date of his death and is not and has not at any time been entitled to benefit under Rule 20 by reference to the deceased as a Child of his.
- (2) For the avoidance of doubt it is declared that paragraph (3) of this Rule—
- (a) Is capable of applying whether or not the deceased has left a Widow surviving him; and
  - (b) Shall continue to apply if the conditions specified in paragraph (1) of this Rule are satisfied and if the deceased has left a Widow surviving him but such Widow dies or ceases to be a Widow in relation to him.
- (a) Where this paragraph applies any benefit payable under paragraph (3) of Rule 16 by reference to the deceased shall be payable wholly to the deceased’s Widow (if any) unless the Committee of Management in their discretion determine to deal with it in either of the following ways, namely—

- (i) they may divide such benefit between the deceased's Widow and any alternative beneficiaries, or any of them, in such proportions as the Committee of Management may determine; or
  - (ii) they may award such benefit wholly to one or more alternative beneficiaries.
- (aa) Where this paragraph applies, any benefit payable under paragraphs (7), (8), (9) or (10) of Rule 16 by reference to the deceased shall be payable to or applied for the benefit of such person or persons including the deceased's Widow and alternative beneficiaries as the Committee of Management may in their discretion determine and the Committee of Management may determine. In addition, in connection with the application of the whole or any part of such benefit, the Committee of Management shall have power to declare trusts and to constitute separate trusts of it and to delegate such powers and discretions to such trustees as the Committee of Management may in their discretion determine.
- (b) The Committee of Management may at any time review any determination previously made by them under this paragraph and on such review make a fresh determination in respect of future payments or vary or revoke any determination previously made by them under this paragraph.
- (c) Any determination made by the Committee of Management under this paragraph shall be binding so far as concerns the person or persons to whom any benefit referred to in sub-paragraph (a) of this paragraph shall be paid, and if and insofar as applicable in what proportions such benefits shall be paid, and in the provisions referred to in sub-paragraph (a) of this paragraph the expression "person to whom benefit is payable" shall be construed accordingly.
- (d) Notwithstanding any of the foregoing provisions of this Rule, if an alternative beneficiary who does not at the date of the deceased's death have the care and maintenance of any such Child as is referred to in sub-paragraph (b) of paragraph (1) of this Rule marries or re-marries, as the case may be, after the date of such death but before 1st January 1979, no benefit shall be payable to her by virtue of any determination of the Committee of Management under this paragraph after the date of such marriage or re-marriage.
- (e) The provisions of Rule 24 shall apply in relation to any such lump sum benefits referred to in that Rule and payable under Rule 16 as are paid to any person by virtue of paragraphs (1) and (2) and this paragraph of this Rule.
- (f) Any reference in the Rules to any pension or other benefit payable, paid or received under Rule 16 shall include a reference to any such pension or other benefit payable, paid or received as the case may be to or by any person by virtue of paragraphs (1) and (2) and this paragraph of this Rule.
- (4) In making any determination under paragraph (3) of this Rule the Committee of Management shall not have regard to any pension payable to the deceased's Widow (if any) under Rule 9A, and shall proceed as if no such pension was payable, whether or not the total amount of the pensions payable by reference to the deceased to such Widow and any alternative beneficiaries under the Rules is increased by virtue of that Rule, such determination and this sub-paragraph.
- (5) For the avoidance of doubt and for the purposes of the interpretation of paragraph (1) of this Rule, any reference to the words "man" and "wife" shall be read if the deceased is a woman as a reference to the words "woman" and "husband" respectively.

## CHILDREN'S BENEFIT

20.—(1) Subject as hereinafter provided, benefit shall be payable under and in accordance with this Rule in respect of any period after 5th April 1975 to the Child of a deceased member.

(a) Subject as hereinafter provided, benefit shall be payable under this paragraph to every Child of the deceased if and so long as there is living any person to whom benefit has been paid by reference to the deceased under Rule 16 (except solely by virtue of or by reference to sub-paragraph (d) of paragraph (2) of that Rule) or under Rule 17 or Rule 18 of the Rules as they had effect immediately before 6th April 1975.

(b) The benefit payable under this paragraph shall be a pension consisting in respect of the periods specified in column (2) and any subsequent column of Part I of the Fifth Schedule of the weekly amounts shown in those columns respectively against item (6) of Part I of that Schedule.

(a) Subject as hereinafter provided, benefit shall be payable under this paragraph to every Child of the deceased if and so long as there is not living any person to whom benefit has been paid by reference to the deceased under any of the Rules or provisions referred to in sub-paragraph (a) of paragraph (2) of this Rule.

(b) The benefit payable under this paragraph shall be a pension consisting of the weekly amount which in respect of the periods specified in column (2) and any subsequent column of Part I of the Fifth Schedule exceeds by the amounts shown in those columns respectively against item (7) of Part I of that Schedule (or, in the case of any Child to whom benefit is payable after he has attained the age of 16, the amounts shown in those columns respectively against item (8) of Part I of that Schedule)—

(i) the aggregate of the weekly rates at which for the time being guardian's allowance payable under the Social Security Legislation and child benefit are (or would if they were both payable in respect of him be) payable in respect of that Child; less

(ii) the weekly amount or aggregate weekly amounts (if any) of guardian's allowance payable under the Social Security Legislation and or alternatively child benefit for the time being payable in respect of that Child.

(c) For the purposes of sub-paragraph (b) of this paragraph "child benefit" means child benefit within the meaning of section 1(1) of the Child Benefit Act 1975.

(4) In any case where the Committee of Management have exercised their discretion under paragraph (3) of Rule 19 or under paragraph (2) of Rule 17 of the Rules as they had effect before 6th April 1975 to determine to divide the benefit payable under any of the Rules or provisions referred to in sub-paragraph (a) of paragraph (2) of this Rule between any of the deceased's Widow and any such other person or persons as are referred to in paragraph (1) of Rule 19 or in paragraph (2) of Rule 17 of the Rules as they had effect before 6th April 1975, the Committee of Management shall have power, exercisable at their discretion on the death of any of the persons between whom it was determined that any such benefit should be so divided, to decide that the benefit payable to any Child of the deceased shall consist of the weekly amount specified in paragraph (3) of this Rule instead of the weekly amount specified in paragraph (2) of this Rule.

(a) Any benefit payable under any of the foregoing provisions of this Rule to a Child of the deceased shall be payable to such Child—

(i) until he attains the age of 16; and

(ii) after he has attained that age, for so long as the requirements of sub-paragraph (b) of this paragraph are satisfied in relation to him.

- (b) The requirements referred to in sub-paragraph (a)(ii) of this paragraph are as follows—
- (i) that such Child is Permanently Incapable of Self-Support; or
  - (ii) that such Child is under the age of 21 and is for the time being undergoing—
    - (A) full-time instruction at any university, school or other educational establishment; or
    - (B) training by any person for any trade, profession or vocation in such circumstances that such Child is required to devote the whole of his time to such training for a period of not less than two years; and while he is undergoing such training the emoluments receivable by him, or payable by the person providing such training in respect of him, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of such training, do not exceed £5.80 per week in respect of any period after 5th April 1975.
- (a) Subject as hereinafter provided, in addition to any benefit payable under the foregoing provisions of this Rule lump sum benefit shall be payable under this paragraph to any Child of the deceased by reference to the deceased if benefit is payable to such Child under the foregoing provisions of this Rule by reference to the deceased and if the deceased dies on or after 6th April 1975
- (i) while he is a member in Eligible Employment; or
  - (ii) as a result of an Industrial Accident or at premises at which persons are in Eligible Employment in circumstances satisfying either of the conditions specified in sub-paragraph (a) of paragraph (10) of Rule 16.
- (b) The amount of any lump sum benefit payable under this paragraph shall be the amount specified in Part I of the Fourth Schedule in relation to this paragraph Provided that subject to sub-paragraph (d) of this paragraph, if but for the proviso specified in Part I of the Fourth Schedule the total of the amounts so specified in relation to this paragraph would have exceeded £500, the sum of £500 so specified shall be divided equally between each Child of the deceased entitled to lump sum benefit under this paragraph.
- (c) If the deceased leaves a Child who is Permanently Incapable of Self-Support and who is not under the age of 21 at the date of his death and no benefit is payable by virtue of the death of the deceased—
- (i) under paragraph (10) of Rule 16; or
  - (ii) to any other Child of the deceased by virtue of subparagraph (a) of paragraph (5) of this Rule;
- such Child Permanently Incapable of Self-Support shall be entitled to receive benefit under paragraph (2) of Rule 21 in lieu of benefit under this paragraph.
- (d) If it appears that the deceased was maintaining more than one family, the Committee of Management may, in their discretion, divide the total of the benefits payable under this paragraph between some or all of the Children of the deceased entitled under the foregoing provisions of this paragraph to receive such benefits in such proportions as the Committee of Management may determine.
- (e) The provisions of Rule 24 shall apply in relation to any lump sum benefit payable under this paragraph.
- (f) For the avoidance of doubt it is declared that this Rule has effect in relation to the death of a woman as well as of a man.



(7) Notwithstanding anything contained in this Rule, no Child who is for the time being entitled to a pension under this Rule shall become entitled to any additional pension thereunder.

## **OTHER DEATH BENEFITS**

**21.**—(1) Benefit shall be payable under this Rule in respect of the death of any member or other person specified in this Rule (such member or other person being in this Rule and in the Sixth Schedule called “the deceased”) who dies on or after 6th April 1975.

(2) Where the deceased dies—

- (a) While he is a member in Eligible Employment; or
- (b) After Retirement from Eligible Employment on or after 6th April 1975 as a result of an Industrial Accident or at premises at which persons are in Eligible Employment in circumstances satisfying either of the conditions specified in sub-paragraph (a) of paragraph (10) of Rule 16;

But without leaving any person to whom benefit is payable by reference to him under Rule 16 (except solely by virtue of or by reference to sub-paragraph (d) of paragraph (2) of that Rule), or Rule 20 (other than sub-paragraph (c) of paragraph (6) of Rule 20), lump sum benefits of the amounts specified in Part I of the Fourth Schedule in relation to this paragraph shall be payable under this Rule by reference to the deceased to the persons indicated in that Schedule.

(3) Subject to the provisions of paragraph (4) and (5) of this Rule, lump sum benefit consisting of the aggregate of whichever shall be applicable of the following amounts shall be payable under this rule to the estate of the deceased by reference to him—

(a) Where the deceased dies—

- (i) while he is a member in Eligible Employment; or
- (ii) in the circumstances specified in sub-paragraph (b) of paragraph (2) of Rule 16 whether or not leaving any person to whom benefit is payable by reference to him under that Rule; or
- (iii) after becoming a member of the Scheme and after he has retired from Eligible Employment on or after 6th April 1975 but not in the circumstances specified in sub-paragraph (b) of paragraph (2) of Rule 16;

an amount in respect of a refund of the contributions paid or deemed to be paid or payable by or in respect of the deceased (in the Sixth Schedule called “the deceased’s contributions”) and (if and insofar as shall be applicable) of units standing to the deceased’s credit calculated in accordance with the provisions of the Sixth Schedule and with Compound Interest at 3% per annum until the date of the deceased’s death calculated in accordance with Rule 44 and in the case of units standing to the deceased’s credit from 3rd April 1961.

(b) If the deceased dies while in Eligible Employment but without leaving any person to whom benefit is payable by reference to him under Rule 16 whichever one of the following applicable amounts is the greatest—

- (i) if the deceased dies before attaining Pensionable Age an amount of 156 times the amount of the weekly pension which had the deceased retired on the day before the date of his death but on or after 6th April 1975 would have been payable to him at the date of his death under Rule 12 or, if no such pension would have been payable to him under that Rule, the weekly pension (if any) which would have become payable to him had he retired as mentioned above but survived Provided that for the purposes of this provision it shall be deemed that a pension would have been or become payable to him under that Rule

and under that Rule notwithstanding that by virtue of the Rules a pension might have been or become payable to him under some other rule and Provided also that in determining the amount of any weekly pension which would had the deceased survived have become payable to him only such annual increases (if any) by reference to changes in the Index of Retail Prices provided for by Rule 26 as shall have fallen to be made on or before the date of the deceased's death shall be taken into account; or

- (ii) if the deceased dies on or after attaining Pensionable Age, an amount of 156 times the amount of the weekly pension which had the deceased retired on the day before the date of his death but on or after 6th April 1975 and on or after attaining Pensionable Age would have been payable to him at the date of his death under Rule 10 (and if and insofar as applicable Rule 11); or
  - (iv) if the deceased dies on or after 1st March 1992, an amount of 104 times the amount of his Pensionable Earnings.
- (c) Where the deceased dies in the circumstances specified in sub-paragraph (b) or (e) of paragraph (2) of Rule 16 but without leaving any person to whom benefit is payable by reference to him under Rule 16 the aggregate of the following amounts—
- (i) the amount of the benefit (if any) which would have been payable by reference to him under paragraph (7) of Rule 16 had there been any person to whom it was payable; and
  - (ii) the amount of the benefit (if any) which would have been payable by reference to him under paragraph (9) of Rule 16 had there been any person to whom it was payable.
- (d) Where the deceased dies—
- (i) in the circumstances specified in sub-paragraph (b) of paragraph (2) of Rule 16; or
  - (ii) after becoming a member of the Scheme and after he has retired from Eligible Employment on or after 6th April 1975 but not in the circumstances specified in sub-paragraph (b) of paragraph (2) of Rule 16;

but without leaving any person to whom benefit is payable by reference to him under Rule 16 (except solely by virtue of or by reference to sub-paragraph (d) of paragraph (2) of that Rule) the amount of the benefit (if any) which would have been payable by reference to him under paragraph (10) of Rule 16 had there been any person to whom it was payable.

(4) There shall be deducted from the amount of the lump sum benefit payable to the deceased's estate by virtue of sub-paragraph (a) of paragraph (3) of this Rule the aggregate of whichever shall be applicable of the following amounts—

- (a) An amount representing the Actuarial Value as at the date of the deceased's death of any pensions payable by reference to him under paragraph (3) of Rule 16, by virtue of sub-paragraphs (a), (b) or (e) of paragraph (2) of that Rule or under Rule 20;
- (b) The amount as at the date of the deceased's death of any benefits paid or payable to the deceased under Rule 10 (whether or not increased under Rule 11), Rule 12, Rule 14 or Rule 15 disregarding the excess of any amount paid or payable to him under Rule 14 in respect of any week over the amount (if any) which would have been payable to him in respect of that week under Rule 12 or Rule 13 had he not been entitled in respect of that week to a pension under the said Rule 14 (or, if in those circumstances no amount would have been payable to him under either the said Rule 12 or the said Rule 13 in respect of that week, the whole amount paid or payable to him in respect of that week under the said Rule 14);

- (c) The amount of any lump sum shown in column (2) of the First Schedule, according to the length of the deceased's Qualifying Service, in any case where part of the amount of a pension to which sub-paragraph (a) of this paragraph does not apply payable by reference to the deceased under paragraph (3) of Rule 16 by virtue of sub-paragraphs (c) or (d) of paragraph (2) of that Rule, consists of the amount of a weekly pension payable from the deceased's death Actuarially Equivalent to such lump sum;
  - (d) The amount of any lump sum benefit payable by reference to the deceased under paragraph (7) or paragraph (9) of Rule 16 or sub-paragraph (c) of paragraph (3) of this Rule;
  - (e) The excess of the amount of any lump sum benefit payable by reference to the deceased under paragraphs (8) and or alternatively (10) of Rule 16 or alternatively any lump sum benefit payable under sub-paragraph (d) of paragraph (3) of this Rule over the aggregate of whichever shall be applicable of the following amounts—
    - (i) the amount specified in Part I of the Fourth Schedule in relation to paragraph (8) of Rule 16 as shall have been taken into account for the purposes of determining the amount of any lump sum benefit payable by reference to the deceased under paragraph (10) of Rule 16;
    - (ii) the amount specified in Part I of the Fourth Schedule in relation to paragraph (10) of Rule 16, insofar as any lump sum benefit is payable by reference to the deceased under that paragraph; and
    - (iii) the total amount of the benefits (if any) referred to in sub-paragraph (d) of this paragraph payable by reference to the deceased.
- (5) The provisions of Rule 24 shall apply in relation to any lump sum benefits referred to in that Rule and payable under this Rule, and so that where any lump sum benefit payable under this Rule is calculated by reference to the amount of a lump sum benefit referred to in those provisions, it shall be so calculated on the basis of the amount of the lump sum benefit so referred to as reduced or extinguished (if applicable) in accordance with the said provisions.

## **RE-EMPLOYED PENSIONERS**

**23.**—(1) This Rule applies to any person (in this Rule called “the re-entrant”) who, having become entitled to a pension (in this Rule called “the Terminated Pension”) under Rule 10 (whether or not increased under Rule 11), Rule 12, Rule 13, Rule 14, Rule 14B or Rule 15, re-enters service in Eligible Employment on or after 6th April 1975 *and before the Transfer Date*.

(2) Subject as otherwise provided, from the date of the re-entry into Eligible Employment referred to in paragraph (1) of this Rule, the entitlement of the re-entrant to the Terminated Pension shall cease.

(3) Subject as hereinafter provided, on any termination of the re-entrant's service in Eligible Employment (*including, for the avoidance of doubt, termination as a result of the arrival of the Transfer Date*) after the re-entry referred to in paragraph (1) and the cessation referred to in paragraph (2) of this Rule—

- (a) Such benefit (if any) shall be payable to or by reference to him under and in accordance with such of the Rules (including Rule 11) as shall be applicable having regard to the circumstances of such subsequent termination; and
- (b) Except for the purposes of Rule 8 all units standing to the credit of the re-entrant and all his periods of service in Eligible Employment and periods of Contributing Service, whether or not they relate to service after any such re-entry as is referred to in paragraph (1) of this Rule, before such re-entry shall so far as material to the calculation of benefit under the Rules referred to in sub-paragraph (a) of this paragraph be taken into account for the purpose of such calculation.

- (a) Notwithstanding anything in paragraphs (2) and (3) of this Rule but subject as hereinafter provided, the re-entrant shall be entitled on any termination otherwise than by reason of death of his service in Eligible Employment after the re-entry referred to in paragraph (1) of this Rule to a pension of an amount not less than the amount of the Terminated Pension and payable from the date of such termination of service in Eligible Employment or, if later, the date on which the Terminated Pension would have become payable to him; and if at any time or for any period the amount of the pension payable in accordance with this sub-paragraph exceeds the amount of the pension which is payable to him in accordance with sub-paragraph (3) of this Rule the pension payable to him by virtue of this Rule shall at that time or for that period be payable to him in accordance with the provisions of this sub-paragraph and shall or the purposes of the Rules be deemed to be payable under the provisions of the Rules under which the Terminated Pension would have been payable to him had he not re-entered service in Eligible Employment as specified in paragraph (1) of this Rule.
  - (b) The provisions of sub-paragraph (a) of this paragraph shall not apply to any such person as is referred to in paragraph (5) of Rule 14 who, having become entitled to a pension under Rule 14, re-enters service in Eligible Employment on or after 6th April 1975 and subsequently retires again from Eligible Employment in such circumstances that the requirements of paragraph (1) of Rule 14 are satisfied in relation to him, and on such subsequent retirement any benefit payable to that person shall be calculated in accordance with the provisions of Rule 14 and of paragraph (3) of this Rule.
- (5) The provisions of Rule 24 shall apply in relation to any lump sum benefits referred to in that Rule and payable to or by reference to any person to whom this Rule applies.

#### **LUMP SUM BENEFITS—SPECIAL PROVISIONS**

**24.—(1)** The amount (after any reductions provided for by this paragraph) of any lump sum benefit (in this paragraph and paragraph (2) of this Rule called a “relevant benefit”) which becomes payable at any time under paragraph (10) of Rule 14 of the Rules as they had effect immediately before 6th April 1975 to any person (in this paragraph and paragraph (2) of this Rule called the “specified person”) shall be applied to reduce or extinguish the amount of any other relevant benefits and of any lump sum benefits payable under paragraphs (8) or (9) of Rule 16 which become payable not earlier than the first-mentioned time to or by reference to the specified person in the same order as the order of time in which the last-mentioned relevant benefits and other lump sum benefits referred to in this paragraph shall be payable Provided that the amount of any relevant benefit applied to reduce or extinguish the amount of any other relevant benefit shall not itself be reduced or extinguished by the amount of such other relevant benefit or any part thereof.

- (a) The total amount of any relevant benefits payable to the specified person shall be applied to reduce or extinguish the amount or total amount of any benefits payable to the specified person’s estate under Rule 21; and
- (b) If the amount or total amount of the benefits payable to the specified person’s estate under Rule 21 is less than the total amount of any relevant benefits payable to him, the amount by which the latter total amount exceeds the total amount of the benefits payable to the specified person’s estate under Rule 21 shall be applied to reduce (and if applicable to reduce in proportion to their respective amounts) or extinguish the amount of any lump sum benefits payable by virtue of that person’s death under paragraphs (7) and (10) of Rule 16, Rule 20 or paragraph (2) of Rule 21.

## **EXTRA SERVICE CREDIT**

**25.**—(1) Subject to the Inland Revenue Limits, a member who was in Eligible Employment on 1st March 1992 shall be awarded, without additional payment, one week's Contributing Service as an Extra Service Credit for each complete four weeks of Contributing Service served or credited to him between 6th April 1975 and 29th February 1992 Provided that for the purpose of this paragraph of this Rule

- (i) there shall be excluded any Contributing Service credited to a member (a) pursuant to a Transfer Payment from the British Coal Staff Superannuation Scheme if the member had previously received an extra service credit under the provisions of that Scheme or (b) pursuant to a Transfer Payment from an Occupational Pension Scheme other than the British Coal Staff Superannuation Scheme or (c) pursuant to a payment made in respect of a transfer from a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988; and
- (ii) the total number of weeks of Contributing Service awarded pursuant to this Rule shall not exceed two hundred and twenty.

(2) Subject to Inland Revenue Limits, a member who was in Eligible Employment on 3rd July 1994 shall be awarded, without additional payment, one week's Contributing Service as an Extra Service Credit for each complete fourteen weeks of Contributing Service served or credited to him between 6th April 1975 and 2nd July 1994 Provided that there shall be excluded any Contributing Service credited to a member (a) pursuant to a Transfer Payment from the British Coal Staff Superannuation Scheme if the member had previously received an extra service credit under that Scheme or (b) pursuant to an Occupational Pension Scheme other than the British Coal Staff Superannuation Scheme or (c) pursuant to a payment made in respect of a transfer from a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

## **ADJUSTMENTS FOR CHANGES IN INDEX OF RETAIL PRICES**

- (a) For the purposes of the Rules "Index of Retail Prices" means—
  - (i) the General Index of Retail Prices for all items shown in the monthly Digest of Statistics published by the Central Statistical Office; or
  - (ii) in the event of that Index ceasing to be published, such other national index as the Committee of Management having regard to the advice of the Actuary shall determine as being the most suitable for the purposes of this Rule Provided that if such other index was first published after 6th April 1975 such adjustment if any shall be made in the figures of the said index having regard to principles analogous to those provided for in paragraph (5) of this Rule as may be determined by the Actuary.
- (b) For the purposes of this Rule—
  - (i) "the Review Date" in relation to any year means 1st October;
  - (ii) "Agreed Month" means *before the Guarantee Date* any Month agreed by the Principal Employer and the Union for the purposes of this Rule *and on and after the Guarantee Date* any Month determined by the Committee of Management with the agreement of the Guarantor for such purposes; and
  - (iii) "the relevant date" in relation to the Index of Retail Prices and in relation to any Agreed Month means the date falling within that Agreed Month selected for the purpose of the computation of the Index of Retail Prices relating to that Month.

(2) Subject as hereinafter provided—

- (a) The total weekly amount at the Review Date of any pension payable under the Rules to any member or other person, but excluding the weekly amount of any guaranteed minimum pension which has become payable under the provisions of Rule 9A and the weekly amount of any pension payable to any member or other person pursuant to Rule 5;
- (b) The amount of any payment of Earnings taken into account for any purpose in calculating Pensionable Earnings in relation to any person under Rule 8; and
- (c) The total weekly amount of any pension which will become payable under the provisions of paragraph (2) of Rule 15;

shall if and insofar as is provided by the following provisions of this rule be increased by reference to changes in the Index of Retail Prices on the Review Date in each year or on such other date within one month before or after the Review Date as the Principal Employer (*before the Guarantee Date*) or the Committee of Management (*on or after the Guarantee Date*) shall determine in relation to that year Provided that no increase shall be made under this Rule in any year to

- (i) the amount specified in sub-paragraph (b) of this paragraph if before the Review Date in that year the service in Eligible Employment of the person referred to in that sub-paragraph had terminated; or
- (ii) the amount specified in sub-paragraph (b) of this paragraph insofar as it consists of the amount of any payment of Earnings payable during an Income Tax Year beginning in that year.

(3) Subject to paragraph (4) of this Rule, the amount of the increase (if any) in any year falling to be made under paragraph (2) of this Rule shall be an amount equal to such percentage of the weekly amount or amount of payment of earnings falling to be increased under that paragraph as is equal to the increase (if any) in the index figure at which the Index of Retail Prices stood for the relevant date in relation to the Agreed Month immediately preceding the Review Date in that year from the index figure at which the said Index stood for the relevant date in relation to the Agreed Month immediately preceding either the Review Date in the last preceding year or if earlier the last preceding Review Date on which an increase fell to be made under paragraph (2) of this Rule expressed as a percentage of the last mentioned index figure.

(4) Notwithstanding anything in paragraph (3) of this Rule, the percentage amount of the increase made by virtue of this Rule *before the Guarantee Date* in any weekly amount or amount of payment of Earnings in any year or period of years shall not exceed such amount as the Actuary shall have certified to be the maximum amount (for the purposes of this Rule called “the Normal Increase Amount”) sustainable in respect of such year or period of years by the Pension Fund without any additional Deficiency Contributions or other additional payment (other than any increase in Standard Contributions) being made by the Principal Employer or by any other Employer in his, its or their capacity as such except by such amount (if any) or to such extent (if any) (which amount or extent when added to the Normal Increase Amount in respect of such year or period of years shall not produce an amount exceeding the amount of the increase which would have been payable in such year or period of years under the provisions of paragraph (3) of this Rule had they been applicable) as shall be determined by agreement between the Principal Employer and the Union or as in default of such agreement shall be determined by the Principal Employer and so that different amounts or extents may be determined under this paragraph in respect of different descriptions or categories of weekly amounts or amounts of payments of Earnings and so that any descriptions or categories of weekly amounts or amounts of payments of Earnings may be excluded from any such determination.

(4A) *Notwithstanding the generality of paragraph (4) of this Rule and for the avoidance of doubt the determination of the percentage amount of the increase made by virtue of this Rule in any weekly amount or amount of payment of Earnings in any year or period of years shall on or after the Guarantee Date be made without reference to the Normal Increase Amount referred to in paragraph (4).*

(5) In the event of any change after 6th April 1975 in the reference base used to compile the Index of Retail Prices the index figure at which the said Index shall be taken to stand for the purposes of this Rule after any such change shall be the index figure at which it would have stood had the reference base current at 6th April 1975 been retained.

(6) For the purposes of this Rule—

- (a) “pension” shall include short service benefit in pension form;
- (b) “short service benefit” shall bear the meaning assigned to it by sub-paragraph (c) of paragraph (3) of Rule 27; and
- (c) “guaranteed minimum pension” means any pension payable or paid under or by virtue of or calculated by reference to Rule 9A, whether or not it is also payable or paid under or by virtue of or calculated by reference to any other provision of the Rules.

(7) *The provisions of this Rule shall not apply to Bonus Augmentations, Crystallised Augmentations or Guaranteed Crystallised Augmentations.*

#### **ADDITIONAL 1990 PENSIONS INCREASE**

**26A.** Any pension which is in the course of payment from the Scheme on 1st April 1990 and any pension awarded under paragraph (2) of Rule 15 of the Rules as they had effect immediately before such date but which is not payable until after such date shall be increased by 5% with effect on and from such date.

#### **ADDITIONAL 1992 PENSIONS INCREASE**

**26AA.**—(1) Any pension which is in the course of payment from the Scheme on 1st March 1992 and any pension awarded under paragraph (2) or (3) of Rule 15 but which is not payable until after such date shall be increased (before any increase pursuant to Rule 26) by 8 per cent with effect on and from 28th September 1992.

(2) If a member who was in receipt of a pension from the Scheme on 1st March 1992 should die on or before 28th September 1992 any pension payable by reference to the deceased member shall be increased (before any increase pursuant to Rule 26) by 8 per cent with effect on and from 28th September 1992.

#### **ADDITIONAL 1994 PENSIONS INCREASE**

**26AAA.** Any pension which is in the course of payment from the Scheme on 3rd July 1994 and any pension awarded on or prior to that date but which does not become payable until after that date shall be increased by 7<sup>1</sup>/<sub>3</sub> per cent with effect on and from 4th July 1994.

#### **REVALUATION OF DEFERRED PENSIONS**

**26B.**—(1) *Paragraphs (1) to (6) of this Rule shall apply before and until the Guarantee Date to any pension awarded to any member whose service in Eligible Employment has terminated or terminates other than by reason of death and which is not revalued under the provisions of Rule 26.*

(2) That part of any pension referred to in paragraph (1) of this Rule which is in excess of the guaranteed minimum pension as defined in Section 35 of the Pensions Act shall if the member's Contributing Service terminates at least one year prior to his attaining Pensionable Age or one year prior to his earlier death if he dies before attaining Pensionable Age be increased in accordance with the provisions of paragraph (3) of this Rule.

(3) That part of the pension referred to in paragraph (2) of this Rule shall be increased each year prior to the member attaining Pensionable Age or his earlier death by the appropriate percentage specified in an Order made by the Secretary of State for Social Security under Section 52A of the Pensions Act in relation to a revaluation period expiring on or after 31st December 1990.

(4) For the purposes of this Rule if a member's service in Eligible Employment terminated on or before 31st December 1989, such service shall be deemed to have terminated on that date.

(5) Where a pension becomes payable on or after 1st April 1990 but prior to 1st January 1991, to, or by reference to, a member whose service in Eligible Employment terminated at least one year prior to his attaining Pensionable Age or one year prior to his earlier death if he dies before attaining Pensionable Age that part of the pension which is in excess of the guaranteed minimum pension shall be increased by 5%.

(6) Notwithstanding the foregoing provisions of this Rule, if a member's Contributing Service terminated on or after 1st January 1986 and at least one year prior to his attaining Pensionable Age or one year prior to his earlier death if he dies before attaining Pensionable Age that part of the pension which is in excess of the guaranteed minimum pension payable to, or by reference to, such member shall be increased in accordance with the provisions of this Rule or, if greater, the provisions of Sections 52A and 52B of, and Schedule 1A to, the Pensions Act as originally enacted in the Social Security Act 1986 and not as amended by the Social Security Act 1990.

(6A) For the purpose of this Rule any notional period of Contributing Service credited to a member in accordance with sub-paragraphs (b) and (c) of the definition of Contributing Service contained in Clause 41 shall be taken to have ended immediately before the member's actual Contributing Service began.

(7) For the avoidance of doubt, this Rule shall not apply to pensions in payment which will be increased in accordance with the provisions of Rule 26.

*(7) With effect from the Guarantee Date the provisions regarding annual increases to pensions set out in Rule 26 in respect of pensions in payment shall apply also to deferred pensions to which paragraph (1) of this Rule relates but with references therein to "Review Date" being construed in relation to deferred pensions as references to 31st December (and the Agreed Month being agreed separately for the purposes of this provision) and for the purposes of calculating the increase of any such pension for any year the rate before the increase takes effect shall be taken to be the rate at which the deferred pension would have been payable had it become payable immediately before the increase date in that year.*

## **INCREASES TO FIFTH SCHEDULE**

**26BB.** Where any benefit is expressed to be payable by reference to an amount specified in column (2) and any subsequent column of the Fifth Schedule to either the Rules as they had effect immediately after 5th April 1975 or to the Rules as from time to time amended, such benefit shall be increased in each year in accordance with the provisions of Rule 26 of the Rules as they had effect immediately after 5th April 1975 and as from time to time amended and the increased amounts shall be entered in a subsequent column of that Schedule.



## **INCREASES TO SEVENTH SCHEDULE**

**26C.** The amounts specified in column (2) and any subsequent column of the Seventh Schedule shall be increased with effect from 1st January in each year commencing in 1991 by the percentage referred to in paragraph (3) of Rule 26B and the increased amounts shall be entered in a subsequent column of that Schedule.

## **PRESERVATION OF BENEFIT**

**27.—**(1) This Rule is incorporated into the Rules in order to ensure compliance by the Scheme and the Rules with section 63 of and Schedule 16 to the Social Security Act 1973 and regulations made under or in connection therewith.

(2) This Rule shall override any other provisions of the Scheme or the Rules which are inconsistent with it (including any which would otherwise have the effect of overriding this Rule) Provided that—

- (a) (i) if at any time or for any period benefit in the form of one or more pensions is payable to any person (in this sub-paragraph called a “beneficiary”) under the provisions of any other Rule or Rules (other than Rule 9A) and benefit in the form of a pension would but for the provisions of this paragraph also be payable to that beneficiary under the provisions of this Rule by reference to the same member or other person; and or alternatively
- (ii) if by virtue of any event or circumstances benefit in the form of one or more lump sums is payable to any person (in this sub-paragraph also called a “beneficiary”) under the provisions of any other Rule or Rules and benefit in the form of a lump sum would but for the provisions of this paragraph also be payable to that beneficiary under the provisions of this Rule by reference to the same member or other person;

benefits shall be or continue to be payable to that beneficiary under such other Rule or Rules in lieu of being payable under this Rule, but in either case any such pensions or lump sums shall if and insofar as is necessary be increased to the amount of the benefit in the same form which would but for this paragraph have been payable to him under this Rule (and if more than one pension or lump sum is so increased each such pension or lump sum shall be increased by the proportion of the total increase which the amount prior to any increase under this paragraph of that pension or lump sum bears to the aggregate amount prior to any increase under this paragraph of the pensions or lump sums so increased) and in the case of benefit in the form of one or more lump sums shall be payable to that beneficiary not later than the time when benefit in the form of a lump sum would but for this paragraph have been payable to him under this Rule;

- (b) Nothing in this Rule shall prevent benefits being paid to any person in circumstances in which benefit is not payable under this Rule;
  - (c) Nothing in this Rule shall be deemed to authorise or require the payment of any benefit contravening or exceeding the Inland Revenue Limits.
- (3) For the purposes of this Rule—
- (a) “Long service benefit” means the benefits to which any of a member, and his Widow, Dependants and estate or personal representatives by reference to him, will be entitled under the Rules if he remains in Eligible Employment until attaining Pensionable Age;
  - (b) “Preservation service” in relation to any person means the aggregate of the following periods, namely—

- (i) any periods (whether or not continuous) of service in Eligible Employment; and
- (ii) for the purposes of sub-paragraph (e)(ii) of this paragraph and paragraph (4) of this Rule, any periods of service whilst such person was a member of another Occupational Pension Scheme relating to the same or any other employment in respect of which additional rights to long service benefit are granted under the Rules in substitution for accrued rights under such other Occupational Pension Scheme

Provided that no account shall be taken of any period which does not qualify such person for long service benefit and Provided also that no period shall be reckoned twice;

- (c) “short service benefit” means the benefits which are or would but for paragraph (2) of this Rule have been payable to or by reference to any person under this Rule on or subsequent to termination of his service in Eligible Employment (otherwise than by reason of death) before he has attained Pensionable Age, such benefits consisting of or comprising benefits of any description (whether pension or lump sum and including any option contained in the Rules to substitute the one for the other in whole or in part) which would have been payable to or in respect of him or available to him as long service benefit;
- (d) “supplementary credits” has the meaning assigned thereto by paragraph 5 of Schedule 16 to the Social Security Act 1973 and any regulations made under that Act; and
- (e) A person’s period of service in Eligible Employment shall be deemed not to have terminated if his service in Eligible Employment has ceased, but—
  - (i) he subsequently re-enters Eligible Employment within the period of not more than one Month referred to in sub-paragraph (a) of paragraph (2) of Rule 2 or pursuant to the exercise of a right to return to work under section 48(1) of the Employment Protection Act 1975; or
  - (ii) having completed or been credited with two years' preservation service he subsequently re-enters Eligible Employment.

(4) Subject to the provisions of paragraph (2) of this Rule, a person (in this Rule called “a person entitled to short service benefit”) whose service in Eligible Employment terminates (otherwise than by reason of death) on or after 6th April 1975 before he has attained Pensionable Age shall be entitled to have short service benefit paid to and by reference to him if at the date of such termination he has completed or been credited with two years' preservation service.

(5) Subject to the provisions of paragraph (7) of this Rule, short service benefit shall be payable in the same manner as long service benefit on attainment by the person entitled to short service benefit of Pensionable Age or (as the case may require) on his subsequent death or within such time after such death as long service benefit would be payable.

- (a) Subject as hereinafter provided and subject to the provisions of paragraph (7) of this Rule, short service benefit shall be computed on the same basis as long service benefit.
- (b) In the case of so much of any long service benefit as—
  - (i) accrues at a higher rate or otherwise more favourably in the case of persons with a period of preservation service of some specified minimum length or of persons remaining in preservation service up to some specified minimum age; or

- (ii) is of an amount or at a rate unrelated to the length of person's preservation service or the amount of contributions payable by, for, or in respect of the person entitled to such benefit;

the corresponding short service benefit shall be calculated on the basis of uniform accrual, bearing the same proportion to long service benefit at the time when the service in Eligible Employment of the person entitled to short service benefit terminates as the period of preservation service completed by that person bears to the period of preservation service which would have been completed by him had he remained in Eligible Employment until he attained Pensionable Age.

- (c) (i) Short service benefit payable in respect of supplementary credits shall be calculated in accordance with the provisions of paragraph (7) of this Rule and not in accordance with the provisions of sub-paragraph (b) of this paragraph if and insofar as the effect of the method of calculation prescribed in the said paragraph (7) is inconsistent with the effect of the provisions of the said sub-paragraph (b);
  - (ii) in the calculation of any period of preservation service which was or would have been completed by a person for the purposes of sub-paragraph (b) above there shall notwithstanding any other provision of the Rules be taken into account only his actual period or periods of service in Eligible Employment;
  - (iii) the short service benefit payable to and by reference to any person shall if and where necessary be increased so that its value will to the reasonable satisfaction of the Committee of Management exceed or compare reasonably with the amount of contributions paid by that person (including contributions paid by way of deduction from Earnings or otherwise) and not refunded in any form.
- (a) Subject as hereinafter provided, short service benefit shall include all supplementary credits to which a person would be entitled as long service benefit, including any supplementary credit which—
    - (i) has been granted, either at the time that person's membership of the Scheme commenced or subsequently, in respect of service by him prior to the date of the grant; or
    - (ii) is not related to length of his pensionable service or the number or amount of contributions paid by or in respect of him; or
    - (iii) represents a transfer of accrued rights from another Occupational Pension Scheme.
  - (b) In the case of any supplementary credits for which a person entitled to short service benefit who would have become entitled thereto as long service benefit was to pay a fixed amount, and such fixed amount has not been paid in full at or before the date when his service in Eligible Employment terminates, the short service benefit payable to and by reference to him in respect of such supplementary credits shall include so much of the amount of the whole of such supplementary credits as bears the same proportion to that amount as the amount which he has paid before his service in Eligible Employment terminates bears to such fixed amount.
  - (c) Subject to sub-paragraph (b) of this paragraph, in the case of—
    - (i) any supplementary credits to which a person entitled to short service benefit who would have become entitled thereto as long service benefit was to contribute the whole or part of the cost where such whole or part has not been fully contributed by the time his service in Eligible Employment terminates; and

- (ii) any supplementary credit of a description specified in sub-paragraph (a) or (b) of this paragraph to which a person entitled to short service benefit who would become entitled thereto as long service benefit has not contributed;

short service benefit payable to or by reference to that person in respect of any such supplementary credit shall include such proportion of the amount of the whole of such supplementary credits as the period of his preservation service since the date on which in the case of such supplementary credits as are referred to in sub-paragraph (c)(i) above the contribution to be made by him or the first part thereof became due or in the case of any such supplementary credits as are referred to in sub-paragraph (c)(ii) above the benefit was granted bears to the period from such date until he attains or would have attained Pensionable Age.

(8) Increases in pensions shall be added to short service benefit or to any benefit payable in lieu thereof by virtue of paragraph (2) of this Rule in accordance with Rule 26 at the same time and in the same manner as to long service benefit.

(9) A person entitled to short service benefit or to have paid to or by reference to him any benefit payable in lieu of short service benefit by virtue of paragraph (2) of this Rule, may, as an alternative to such entitlement, elect, by notice in writing given to the Pensions Officer on the termination of his service in Eligible Employment or at any later time before attaining Pensionable Age and subject to the agreement of the Pensions Officer, for payment of a Transfer Payment to another Occupational Pension Scheme in accordance with the provisions of Rule 28 provided that a transfer payment may be made in respect of him without his consent as an alternative to such entitlement in the circumstances specified in paragraph (1A) of Rule 28.

- (a) Subject as hereinafter provided any provisions of the Rules relating to assignment and surrender of benefits, to charge or lien on benefits or the resources of the Pension Fund, forfeiture and cognate matters shall apply in relation to this Rule and to any benefit payable in lieu of short service benefit by virtue of paragraph (2) of this Rule.

- (b) (i) No provision of the Rules shall operate so as to deprive a person otherwise entitled to receive short service benefit or benefit payable in lieu thereof by virtue of paragraph (2) of this Rule of such benefit by reason of failure by that person or any other person to make a claim for or obtain such benefit or any payment due as benefit Provided that—

- (A) this sub-paragraph shall not prevent reliance on any enactment relating to the limitation of actions and

- (B) where any payment by way of short service benefit or benefit payable in lieu thereof by virtue of paragraph (2) of this Rule is not claimed within six years of the date on which it becomes due, the person who would but for this provision have been entitled to receive such payment shall forfeit that entitlement;

- (ii) no provision of the Rules shall operate so as to deprive a person otherwise entitled to receive short service benefit or benefit payable in lieu thereof by virtue of paragraph (2) of this Rule of such benefit by reason of failure by that person or any other person at any time after the service in Eligible Employment of the person entitled to short service benefit terminates to give any notice or comply with any formality required by the Scheme as a condition of entitlement;

(11) On the winding-up of the Scheme, members then in Eligible Employment and under Pensionable Age shall be entitled to short service benefit as if their service in Eligible

Employment had then terminated, and the provisions of Clause 40 and insofar as it has effect Clause 40A of the Scheme shall apply Provided that—

- (a) Any short service benefit and any benefit payable in lieu thereof by virtue of paragraph (2) of this Rule in course of payment shall be subject to the same degree of priority as any long service benefit in course of payment; and
- (b) Transfer payments may be made in relation to short service benefit or benefit payable in lieu thereof by virtue of paragraph (2) of this Rule to one or more Occupational Pension Schemes without the consent of the persons in respect of whom such Transfer Payments are made in the circumstances specified in paragraph (1A) of Rule 28 or provided that the Occupational Pension Scheme to which a Transfer Payment is made in respect of any such person relates to the same employment or to employment with the same Employer (or his successors) as the employment of such person at the date of such winding-up.

(12) On the death of a person entitled to short service benefit before such benefit becomes payable, benefits shall be payable if and insofar as is provided by the foregoing provisions of the Rules.

(13) A person who is not entitled to short service benefit under paragraph (5) of this Rule on termination of service in Eligible Employment on or after 6th April 1975 shall be entitled to benefits if and insofar as is provided by the foregoing provisions of the Rules.

(14) Any pension becoming payable under Rule 11, 12, 13, 14 or 14A before Pensionable Age shall, if it is equal to or larger than that which would be required to constitute short service benefit, be not less than the actuarial equivalent of the pension which would have been payable by virtue of paragraphs 1 and 2 of Schedule 1A to the Pensions Act from Pensionable Age.

## IV

### —TRANSFERS

#### **TRANSFER PAYMENTS**

**28.**—(1) Where a person's service in Eligible Employment terminates otherwise than by reason of his death, whether before, on or after 6th April 1975, the Pensions Officer may in his discretion, and (subject to the provisions of sub-paragraph (b) of paragraph (11) of Rule 27 and as hereinafter provided) if that person so elects in writing, authorise the making under this Rule on terms approved by the Actuary of a Transfer Payment in respect of that person from the Scheme to another Occupational Pension Scheme which consents to accept such payment on those terms—

- (a) If that other Occupational Pension Scheme is either—
  - (i) approved as an exempt approved Scheme under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988; or
  - (ii) otherwise approved for the purposes of this paragraph;  
by the Commissioners of the Inland Revenue; and
- (b) Where the service in Eligible Employment of that member or other person terminates on or after 6th April 1978, if his employment under that other Scheme is contracted-out employment by reference to that Scheme, within the meaning of the Pensions Act, or that Scheme is subject to Section 49 of the Pensions Act or, the Transfer Payment is made to that Scheme in the circumstances referred to in Regulation 2(3) of the Contracting-Out (Transfer) Regulations 1985 and the Occupational Pensions

Board (whether or not subject to conditions) approve the arrangements made for the transfer.

- (c) *For the avoidance of doubt for the purposes of any determination after the Guarantee Date of a Transfer Payment under this Rule, the benefits of a Member by reference to which the Transfer Payment under this Rule is calculated shall not include Bonus Augmentations or Crystallised Augmentations.*

(1A) Where a member's or other person's service in Eligible Employment terminates otherwise than by reason of his death on or after 6th April 1978, but he continues in employment with the same employer (within the meaning of section 63 of and Part I of Schedule 16 to the Social Security Act 1973 and of the Pensions Act) and becomes a contributor to the Staff Scheme, a Transfer Payment may be made in respect of him to the Staff Scheme under paragraph (1) of this Rule notwithstanding that he does not so elect in writing or otherwise if—

- (a) The benefits assured to him under the Staff Scheme by virtue of that Transfer Payment are not less in amount than the benefits—
- (i) earned by him under the Scheme before 6th April 1978, calculated where applicable by reference to his Pensionable Earnings at the date of such termination; or
  - (ii) otherwise accrued to or in respect of him under the Scheme before 6th April 1978; and
- (b) The rights allowed to him under the Staff Scheme by virtue of that Transfer Payment are in the opinion of the Committee of Management at least equal in value to his accrued rights under the Scheme.

(2) Where a person enters service in Eligible Employment, whether before, on or after 6th April 1975, the Pensions Officer may in his discretion authorise *before the Closure Date* the acceptance *before the Closure Date* under this Rule on terms approved by the Actuary of a Transfer Payment in respect of that person (*being a member*) by the Scheme from another Occupational Pension Scheme which consents to make such payment on those terms.

(3) Where a Transfer Payment in respect of a member has been made to a personal pension scheme (as defined in Section 1 of the Pension Schemes Act 1993), such former member may subsequently, if he so wishes, with the consent of the Committee of Management *and with effect from the Guarantee Date, the Guarantor*, be reinstated as a member of the Scheme upon such terms and subject to such payment to the Scheme as the Committee of Management *and in relation to payments after the Guarantee Date, the Guarantor may approve on the advice of the Actuary.*

#### TRANSFERS TO IWS-MPS

**28A.—**(1) *A member entitled to benefit on ceasing to be a member paying Normal Contributions at the Transfer Date who is admitted to membership of IWS-MPS may at his option in lieu of all entitlements under these Rules require the Trustee to transfer to the trustee of IWS-MPS such assets in respect of him as correspond to the Transferable Sum as defined in (3) below.*

(2) *Such a Member as is referred to in paragraph (1) above may exercise the right to require the Trustee to transfer the Transferable Sum at any time within 6 months after the Transfer Date or the date he first becomes a member of IWS-MPS, whichever is later.*

(3) *The Transferable Sum means the amount corresponding to the value of the Member's accrued rights to benefits at the Transfer Date but excluding Bonus Augmentations calculated by the Actuary in accordance with the provisions of the Eighth Schedule.*

(4) *The transfer in accordance with this rule of the Transferable Sum shall discharge the Trustee from any further liability to pay the benefits by reference to which it was made so that the person who had been entitled to those benefits and, in the case of a Member or former Member all persons claiming by reason of his membership shall cease to have any rights under the Scheme.*

(5) *Where a transfer of the Transferable Sum is made pursuant to this Rule, benefits shall not be payable under the Rules and no Bonus Augmentations shall be paid.*

## V

### —MISCELLANEOUS: ADMINISTRATION

#### GENERAL DISCRETION

**31.**—(1) *Subject to paragraph (2) of this Rule* The Principal Employer may in their discretion, after consultation with the Committee of Management, grant special terms to any individual member or person who had become a member within the age and pension limits of the Scheme and the Rules; any additional cost shall be paid to the Scheme in such manner as the Committee of Management may determine.

(2) *Without prejudice to any arrangements made under paragraph (1) of this Rule before the Guarantee Date the power of the Principal Employer under paragraph (1) may after the Guarantee Date only be exercised with the prior consent of the Guarantor and with effect from the Closure Date the paragraph shall cease to have effect.*

#### EXTENSION OF TIME LIMITS

**32.** Where in these Rules provision is made for anything to be done at a certain time or within a certain period, the Committee of Management may, in relation to any person, in their discretion substitute a later time or extend such period. *This Rule is not to be interpreted as permitting anything to be done on or after the Closure Date or the Transfer Date if the Rules specifically provide for it to be done (as the case may be) before the Closure Date or the Transfer Date.*

#### PAYMENT OF BENEFITS

**33.**—(1) Subject as otherwise provided in these Rules, any lump sum or refund of contributions payable thereunder to a person or his estate, or to any Relative or Dependant of a person, shall be paid not later than the expiration of 28 days after the event upon which it becomes payable or upon proof of the entitlement of the person claiming it, whichever occurs the later Provided that if such person may subsequently satisfy the conditions specified in subparagraphs (a) or (b) of paragraph (2) of Rule 2, no such lump sum or refund of contributions shall be payable to him until the Pensions Officer is satisfied that he will not or cannot satisfy any of those conditions.

- (a) Subject as hereinafter provided, any pension payable under the Rules shall be paid—
- (i) with effect from the beginning of the week next following the date of the event creating the entitlement; and
  - (ii) at such time as shall be determined by the Principal Employer (*before the Guarantee Date*) or the Committee of Management (*on and after the Guarantee Date*), not being more than 13 weeks after end of the week to which it relates;

Provided that for the purposes of determining the amount of any pension which would have been payable to any member had he retired on the day before the date of his death, whether or not under any specified conditions or in any specified circumstances, the first payment of such pension shall be deemed to become payable on the date of such deemed retirement.

(b) Where for any reason beyond the control of the Principal Employer (*before the Guarantee Date*) or the Committee of Management (*on and after the Guarantee Date*) any payment of pension cannot be made at the time agreed in pursuance of the preceding sub-paragraph, it shall be made as soon as reasonably practicable thereafter.

(3) Where any person who is entitled to a pension under the Rules becomes entitled to such pension at a changed rate, such pension shall be paid at that changed rate with effect from the beginning of the week next following the date of the event causing the change or if before the beginning of such week such pension has been paid in respect of one or more weeks subsequent to the event causing the change, with effect from the beginning of the week next following the last week in respect of which such pension has been so paid.

(4) On the death of any person who is entitled to a pension under the Rules or the occurrence of any other event whereby he ceases to be entitled to such pension—

(a) No sums shall, by reason of the occurrence of that death or other event, be repayable in respect of any payment of such pension already made;

(b) If, apart from the occurrence of that death or other event, a payment of pension would have been due or deemed to be payable on the date of that death or other event, such payment shall be made or deemed to be payable as if that death or other event had not occurred;

(c) If, apart from the occurrence of that death or other event, a payment of pension for any period including the date of that death or other event would not have been due until after that date, there shall be paid as soon as reasonably practicable a sum equal to such part of that payment as would have been attributable to the part of that period ending with the date of that death or other event, and for the purposes of this paragraph pension shall be deemed to accrue from day to day.

(5) Where any person (in this paragraph called “the deceased”) who is entitled to a pension under the Rules dies and some other person thereupon becomes entitled to a pension by reference to the deceased, the pension payable to that other person shall be paid with effect from the beginning of the week next following the week which includes the last date in respect of which pension is payable to the deceased.

(6) Benefits payable under the Rules shall be paid at such office of the Principal Employer or at such other place and in such manner as the Principal Employer (*before the Guarantee Date*) may from time to time determine and no person shall be disqualified from receiving such benefits by reason of being absent from the United Kingdom. *After the Guarantee Date benefits shall be payable at such offices or other place or in such manner as the Committee of Management may with the consent of the Guarantor from time to time determine.* Any payment made through the post or otherwise at the written request of the person entitled thereto will be made at the risk of that person.

(7) Where any amount payable by way of benefit under the Rules on any day on or after 6th April 1975 would otherwise include a fraction of a new penny, such fraction shall be treated as a whole new penny.

(8) Notwithstanding any other provision of the Scheme and Rules and without prejudice to the operation of the Scheme and Rules on the payment of pensions and benefits to any person on and after 1st January 1987 any payment of any pension or benefit made prior to that date



shall be deemed to have been duly made notwithstanding that it may have been calculated and paid on the assumption that Contributing Service included a Period of Strike Absence after February 1984 and before 1st January 1987.

#### **UNCLAIMED BENEFITS**

**34.** The right to any benefit payable under the Rules (other than any sum expressed to be payable under the Rules to the estate of the deceased member or other person) shall be extinguished if payment thereof is not obtained within a period of 12 months from the date on which that sum becomes payable under the Rules unless in any case the Committee of Management in their discretion extend the said period.

#### **PERSONS NOT RESIDENT IN THE UNITED KINGDOM**

**36.** Any payment of pension to a person resident outside the United Kingdom shall be made in sterling to an account opened with a banker in the United Kingdom, being an account nominated by notice in writing addressed to the Pensions Officer by the person entitled to such pension, and an acknowledgement by that banker shall be a sufficient discharge to the Committee of Management for any such payment.

#### **MEDICAL EXAMINATIONS**

**37.** Every member shall, when required so to do by the Committee of Management, submit himself for medical examination by the Principal Employer's Medical Adviser.

#### **EVIDENCE BY MEMBERS, CLAIMANTS AND BENEFICIARIES**

**38.—(1)** Every person claiming benefit under the Rules shall—

- (a) In such circumstances as may be prescribed by the Committee of Management submit his claim in such form as the Committee of Management shall prescribe or approve; and
- (b) Furnish such evidence in support of his claim, and in particular, but without prejudice to the generality hereof, such evidence of his age as the Committee of Management may require.

**(2)** Every person entitled to any pension under the Rules shall—

- (a) Give notice in writing to the Pensions Officer of his place of residence at the time of becoming so entitled;
- (b) Forthwith give notice in writing of any change of his place of residence;
- (c) Furnish from time to time such evidence of his being alive as the Committee of Management may require; and
- (d) Forthwith give notice in writing to the Pensions Officer of the occurrence of any event affecting his entitlement.

**(3)** Where any person fails to give such evidence as is required by sub-paragraph (c) of paragraph (2) of this Rule the Committee of Management may suspend or terminate the payment of any further benefits to or by reference to him.

#### **BENEFITS NOT ASSIGNABLE**

**39.—(1)** Benefits under the Rules shall not be assignable or chargeable and shall cease to be payable to a person (in this Rule called "the assignor") who would but for this provision be entitled thereto in the event of the bankruptcy of the assignor or upon the execution by him

of any assignment for the benefits of his creditors or of any attempts to mortgage, charge or otherwise assign the same to any person; and if any of those events shall occur on or after 6th April 1975, whether or not the benefits referred to in this paragraph have previously become payable, the provisions of paragraph (2) of this Rule shall apply.

(2) Where the provisions of this paragraph apply, the Committee of Management shall have power in their absolute discretion to pay or apply from the Pension Fund an amount or amounts (not exceeding in aggregate the amount or amounts of the benefits which would but for paragraph (1) of this Rule have become payable to the assignor) for any one or more of the following purposes—

- (a) For the benefit of the assignor;
- (b) If and for so long as the assignor is a party to a marriage, for the maintenance of the other party to such marriage;
- (c) For the maintenance, education or training of any Child of the assignor who for the time being has not attained the age of 18 or who, having attained that age, has not ceased to undergo full-time education or training; and
- (d) For the making of reasonable provision for the care or maintenance of any dependent relative of the assignor.

(3) Notwithstanding the provisions of paragraph (1) of Clause 41 for the purposes of paragraph (2) of this Rule—

- (a) “Child” in relation to the assignor means—
  - (i) any legitimate child, step-child or adopted child of the assignor or of any person (in this paragraph called “the assignor’s spouse”) who is for the time being such a person as is specified in sub-paragraph (b) of paragraph (2) of this Rule; and
  - (ii) any person who is not for the time being in the care of any person in relation to whom he is a legitimate child, adopted child or step-child, and who has before attaining the age of 18 been in the care of the assignor for substantial periods;
- (b) “dependent relative” in relation to the assignor means a relative (within the meaning of section 46 of the Finance Act 1975) of the assignor or of the assignor’s spouse who is incapacitated by old age or infirmity from maintaining himself, or the mother of the assignor or of the assignor’s spouse, if and for so long as such mother is widowed or living apart from her husband or, in consequence of dissolution or annulment of marriage, single woman.

## **INCAPACITY OF BENEFICIARY**

**40.—**(1) This Rule shall apply where any person entitled to benefit under the Rules is, in the opinion of the Committee of Management, having regard to the advice of the Principal Employer’s Medical Adviser, unable to act (whether because of mental disorder or for any other reason).

(2) Where this Rule applies the Committee of Management may in their discretion pay any sum to which that person is entitled under the Rules to any other person for the maintenance of such first-mentioned person or his dependants, and the receipt of the person to whom any money is so paid shall be a sufficient discharge for the payment of the amount mentioned therein.

(3) Where this Rule applies any pension which would otherwise be payable to the first-mentioned person by virtue of Rule 9A and is not for the time being paid under paragraph (2) of this Rule shall be held by the Committee of Management to be paid by them at their discretion, while that person remains unable to act as specified in paragraph (1) of this Rule, in accordance

with paragraph (2) of this Rule, and subject thereto shall be held by them for that person until he again becomes able to act or, if he dies without so doing, for his estate.

#### **PAYMENT OF BENEFITS ON DEATH**

**41.**—(1) The following provisions of this Rule shall have effect with respect to the payment, on the death of a member or other person (in this Rule called “the deceased”) entitled to benefit under the Rules, of—

- (a) Any sums expressed to be payable under the Rules to the estate of the deceased; and
- (b) Any sums which accrued due to the deceased under the Rules during his lifetime and were unpaid at the time of his death (other than any sums which have ceased to be payable by virtue of Rule 34).

(2) Subject as hereinafter provided, any such sum as is referred to in paragraph (1) hereof shall be paid, on production of Probate or Letters of Administration, to the personal representatives of the deceased.

(3) Where—

- (a) The personal representatives of the deceased do not send a written claim to the Pensions Officer within 12 Months after the date of the death for any such sum as is referred to in paragraph (1) hereof; or
- (b) The total amount of the sums referred to in paragraph (1) hereof does not exceed £5,000 or such higher amount as may be specified for the time being by Order under Section 6 of the Administration of Estates (Small Payments) Act 1965;

the sums referred to in paragraph (1) hereof, or any part of them, may be paid to or expended for the benefit of any one or more of the Relatives or Dependants of the deceased, or, if there be no such Relatives or Dependants, may be retained in the Pension Fund.

(4) Out of the sums referred to in paragraph (1) of this Rule the Committee of Management may pay sums not exceeding a total of the amount specified in Part I of the Fourth Schedule in relation to this paragraph to any person or persons who have incurred expense in providing for the funeral of the deceased Provided that no payment shall be made under this paragraph in a case where a payment has been made under paragraph (2) of Rule 21 or under paragraph (5) of Rule 20 of the Rules as they had effect immediately before 6th April 1975 to any person or persons by reason of their having incurred such expense as is referred to in this paragraph.

(5) Subject as hereinbefore provided the Committee of Management shall have an absolute discretion as to whether, and to whom, to make any payments under paragraphs (3) and (4) of this Rule and the receipt of any person to whom any money is paid in pursuance of either paragraph shall be a sufficient discharge for the payment of the amount mentioned therein.

#### **PAYMENT OF CHILDREN'S BENEFITS**

**42.** Benefits expressed to be payable under the Rules to or in respect of a Child may be paid at the discretion of the Committee of Management to the Child in respect of whom they are payable or to any other person for the benefit of such Child, and the receipt of any person to whom such benefits are so paid shall be a sufficient discharge for the payment of such benefits.

#### **INCOME TAX**

**43.** If any liability to income tax shall arise in respect of any benefit falling to be paid to any person under the Rules, whether before, on or after the 6th April 1975, the Committee of Management may deduct the amount of such income tax (including any interest payable thereon) from such benefit and account for the same to the proper authorities before paying

such benefit to the person entitled thereto or may postpone payment of such benefit until the liability for such tax and any interest payable thereon has been paid or provided for to the satisfaction of the Committee of Management.

#### **CALCULATION OF COMPOUND INTEREST**

**44.**—(1) In calculating Compound Interest under the Rules any fraction of a year in the period for which such interest is payable shall be deemed to be a year if it is equal to six months or more and shall otherwise be ignored.

(2) Whichever shall be applicable of paragraphs (4) and (5) of this Rule shall apply where the amount of a refund with Compound Interest thereon of any contributions (in this Rule called “refundable contributions”) paid or deemed to be paid or payable by or in respect of any person (in this Rule called “the contributor”) falls to be calculated for any purpose under the Rules.

(4) If and insofar as the contributor’s refundable contributions are paid or deemed to be paid or payable by or in respect of the contributor in respect of any period ending on or after 6th April 1975—

- (a) The total amount of the contributor’s refundable contributions shall be divided by the number of years comprised in such period (such number of years being calculated in accordance with paragraph (1) of this Rule), and the amount resulting from such division shall in this paragraph and paragraph (5) of this Rule be called a “yearly amount”; and
- (b) The contributor shall be deemed for the purposes of this Rule to have paid one yearly amount on the day one year before the end of the period to which the refund relates, a further yearly amount on the day one year before the first-mentioned day, and so on until all yearly amounts in relation to him have been thus taken into account.

(5) Rests for the purpose of calculating interest shall be deemed to occur—

- (a) On days on which any refundable contributions (including any yearly amount) are deemed to have been paid, other than the earliest such day;
- (b) At the end of the period to which the refund relates; and
- (c) If the period for which interest is payable continues after the end of the period to which the refund relates, at yearly intervals after the end of the period to which the refund relates.

#### **SCHEME AND RULES TO BE SUPPLIED TO MEMBERS**

**45.** A copy of the Scheme and the Rules shall be supplied to every member requiring the same.

#### *PROVISION OF INFORMATION TO IWS—MPS*

**45A.** *The Committee of Management shall provide the trustee of IWS—MPS with all such information in their possession relating to those members of the Scheme in respect of whom the Committee of Management is required by Rule 28A to make a transfer payment to IWS—MPS as may reasonably be requested by the trustee of IWS—MPS.*

## VI

### —DETERMINATION OF CLAIMS AND DISPUTES

#### **DETERMINATIONS BY LOCAL COMMITTEES**

**46.**—(1) Subject to Rule 50 every question or dispute which may arise in connection with eligibility for membership of the Scheme or any claim to credit or benefit under the Rules, whether as regards the administration of the Scheme or the interpretation or construction of any provision thereof or of the Rules, shall be referred to and determined in the first instance by the appropriate Local Committee of the person in respect of whom the question or dispute arises, of the member or other person by or in respect of whom the claim is made or, if the claim is made by reference to a member or other person, of that member or other person. If that Local Committee are unable to agree on any matter referred to them under this Rule, the matter shall be referred to the Committee of Management whose decision shall be final.

(2) *References in these Rules to Local Committees shall with effect from the Guarantee Date be construed as references to such other sub-committee or committees of the Committee of Management as shall be established to undertake the functions of the Local Committees with effect from the Guarantee Date.*

#### **APPEALS**

**47.**—(1) Every decision made by a Local Committee on a reference to them under the last preceding Rule shall be subject to appeal to the Committee of Management, whose decision shall be final.

(2) If the Committee of Management are unable to agree on any matter referred to them under paragraph (1) of this Rule or under Rule 46 the matter shall be referred to a single arbitrator, to be appointed by the President for the time being of the Law Society, whose decision shall be final.

#### **DETERMINATION OF MEDICAL QUESTIONS**

**48.** Any person who is aggrieved by the determination of the Principal Employer's Medical Adviser as to any matter as to which under the Rules his opinion or certificate is required to be given may require the appropriate Local Committee to refer the matter to an independent Medical Consultant appointed or approved by that Committee and thereupon the matter shall be so referred. The determination of such independent Medical Consultant upon the matter so referred shall be final.

#### **INDUSTRIAL INJURIES QUESTIONS**

**50.** The determination under the provisions of the Industrial Injuries Act or any of the provisions of the Social Security Legislation relating to industrial injuries and industrial diseases of any question or dispute in connection with any claim to benefit under that Act or that Legislation respectively shall be conclusive for the purpose of any related claim to benefit made under or insofar as applicable made by reference to Rule 14, or Rule 16, or made under Rule 16 or Rule 18 of the Rules as they had effect immediately before 6th April 1975.

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## FIRST SCHEDULE

Table of Lump Sum Widows' Benefit

(1) Length of member's Qualifying Service	(2) Lump sum payable to Widow
	£
Less than 20 years	150
20 years	157
21 years	168
22 years	179
23 years	190
24 years	201
25 years	213
26 years	226
27 years	238
28 years	251
29 years	265
30 years	278
More than 30 years	293

## SECOND SCHEDULE

Table of Lump Sum Benefits—Rule 10(3)(b) and Sixth Schedule

Units (1)	Lump Sum (2)
	£
78	4
156	10
234	16
312	22
390	29
468	36
546	43
624	51
702	59
780	67

Units (1)	Lump Sum (2)
858	75
936	83
1,014	91
1,092	100
1,170	109
1,248	118
1,326	127
1,404	137
1,482	147
1,560	157
1,638	168
1,716	179
1,794	190
1,872	201
1,950	213

### THIRD SCHEDULE

Instrument	Date
<b>1.</b> Resolution	25th October, 1951
<b>2.</b> Resolution	29th November, 1963
<b>3.</b> Resolution	28th April, 1967
<b>4.</b> Resolution	6th September, 1968
<b>5.</b> Resolution	1st August, 1969
<b>6.</b> Resolution	3rd October, 1969
<b>7.</b> Resolution	6th March, 1970
<b>8.</b> Resolution	3rd July, 1970
<b>9.</b> Resolution	6th August, 1971
<b>10.</b> Resolution	20th July, 1972
<b>11.</b> Resolution	10th August, 1973
<b>12.</b> Committee Decision	10th March, 1975
<b>13.</b> Resolution	13th April, 1976
<b>14.</b> Resolution	16th June, 1976

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Instrument	Date
15. Resolution	5th April, 1977
16. Resolution	18th August, 1977
17. Resolution	29th March, 1978
18. Resolution	2nd October, 1978
19. Resolution	4th April, 1978
20. Resolution	8th January, 1979
21. Resolution	6th June, 1979
22. Resolution	27th February, 1980
23. Resolution	21st October, 1980
24. Resolution	21st January, 1981
25. Resolution	26th November, 1986
26. Resolution	16th December, 1986
27. Resolution	5th June, 1987
28. Resolution	19th April, 1988
29. Resolution	17th May, 1989
30. Resolution	3rd July, 1989
31. Resolution	15th January, 1990
32. Resolution	16th May, 1990
33. Resolution	16th November, 1990
34. Resolution	17th December, 1990
35. Resolution	15th March, 1991
36. Resolution	14th June, 1991
37. Resolution	31st March, 1992
38. Resolution	18th September, 1992
39. Resolution	21st July, 1993
40. Resolution	28th July, 1993
41. Resolution	31st March, 1994
42. Resolution	2nd June, 1994
43. Resolution	20th July, 1994
44. Resolution	10th August, 1994
45. Resolution	23rd September, 1994

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## FOURTH SCHEDULE

## Part I

## —Amounts of Certain Lump Sum Benefits

Description of Benefit	Amount
Death in service benefit under Rule 16(8) and industrial death benefit under Rule 16(10)	£300
Children's benefit under Rule 20(6)	£50 or, if no benefit is payable in respect of the death under Rule 16(8), £100 Provided that the total amount of benefits paid under Rule 20(6) shall not exceed £500 in respect of any death.
Death benefits under Rule 21(2)	<p>(a) If the deceased person leaves Special Dependants, such sums not exceeding £300 in total as the Pensions Officer may in his discretion award to any or all of the Special Dependants provided that no one person shall be awarded more than £200.</p> <p>(b) If the deceased person does not leave Special Dependants, such sum not exceeding £100 as the Pensions Officer may in his discretion award to a Relative of the deceased person or to a person living in the same household as the deceased person, or to any person or persons who have incurred expense in providing for the funeral of the deceased person.</p>
Payment towards funeral expenses under Rule 41(4)	£500

## Part III

## —Special Dependants

For the purposes of this Schedule the expression "Special Dependants" in relation to any person means any other persons who, in the opinion of the Committee of Management, are or were at the date of the death of the first-mentioned person, or any such other date as the Committee of Management may consider relevant, wholly or mainly dependent on the first-mentioned person for financial support.

## FIFTH SCHEDULE

1. Where in any provision of the Rules an amount is specified by reference to an item number in Part I of this Schedule relating to that provision, that amount shall in respect of

the periods specified in column (2) and any subsequent column of Part I of this Schedule, be the weekly amount shown in those columns respectively against such item number and where applicable against the period of Qualifying Service or degree of disablement specified in column (1) of Part I of this Schedule of the person in relation to whom such amount falls to be computed.

2. The amounts specified in column (2) and any subsequent column by reference to items numbered (1) to (5) inclusive in Part I of this Schedule are based in the case of a member whose service in Eligible Employment terminates on and after 4 July 1994 on a complete election having been made in accordance with the provisions of paragraph (5) of Rule 10. In the event of such a complete election not being made, the said amounts shall be adjusted in such manner as the Committee of Management may determine on the advice of the Actuary.

Item No.	Provision of the Rules (1)	On and after 04.07.1994 (2)
PART I		
(1)	Rule 10(2)(b)	£2.27
(2)	Rule 10(2)(f)	
	Period of Qualifying Service	
	5 years	£14.02
	6 years	£16.80
	7 years	£19.62
	8 years	£22.43
	9 years	£25.20
	10 years or more	£27.99
(3)	Rule 13(2)(a)	£2.27
(4)	Rule 14(3)(a)	
	Degree of Disablement	
	1% to 5%	£0.46
	6% to 10%	£0.86
	11% to 15%	£1.26
	16% to 20%	£1.62
	30%	£2.47
	40%	£3.33
	50%	£4.14
	60%	£5.01
	70%	£5.81
	80%	£6.62
	90%	£7.47
	100%	£8.78

Item No.	Provision of the Rules (1)	On and after 04.07.1994 (2)
(5)	Rule 14(3)(a)	£3.73
(5A)	Rule 16(4)(b)	£15.12
(6)	Rule 20(2)(b)	£5.26
(7)	Rule 20(3)(b)	£6.33
(8)	Rule 20(3)(b)	£18.66

#### SIXTH SCHEDULE

1. The amount in respect of a refund of the deceased's contributions and (if and insofar as shall be applicable) of units standing to the deceased's credit referred to in sub-paragraph (a) of paragraph (3) of Rule 21 shall consist of the aggregate of such of the following amounts as shall be applicable—

- (a) The total amount of contributions payable by or in respect of him under Rules 3 and 4 and of any other contributions specified in sub-paragraph (b) of paragraph (5) of Rule 15 (excluding the amount of any contributions previously refunded under paragraph (5) of Rule 15 before any reduction under sub-paragraph (c) of that paragraph.
- (b) The total amount of the deceased's contributions for the period referred to in paragraph (1) of Rule 5 of the Rules as they had effect before 6th April 1975 and for any part of the period beginning on 3rd April 1961 and ending on 5th April 1975 in respect of which he is entitled to a pension under the Rules or would have been or become entitled to a pension under the Rules had he retired on the day before the date of his death but on or after 6th April 1975 in such circumstances that a pension was or would had he survived have become payable to him under Rule 10 (whether or not increased under Rule 11) or Rule 12 but under no other Rule; and
- (c) If the deceased has units standing to his credit, representing service before 3rd April 1961, the amount of the lump sum specified in column (2) of the Second Schedule, according to the number of units standing to his credit.

2. For the purposes of paragraph 1(b) of this Schedule—

- (a) The number of the deceased's contributions for the period referred to in paragraph (1) of Rule 5 of the Rules as they had effect before 6th April 1975 shall be deemed to be equal to the number of weeks of his service in Eligible Employment during that period, calculated in accordance with Rule 9 of the Rules as they had effect immediately before 6th April 1975.
- (b) The number of the deceased's contributions for any part of the period beginning on 3rd April 1961 and ending on 5th April 1975 in respect of which he is or would had he retired as specified in sub-paragraph (b) of paragraph 1 of this Schedule and if applicable survived have been or become entitled to a pension shall be deemed to be equal to the number of weeks of his service in Eligible Employment by reference to which such pension was or would have been calculated; and
- (c) The amount of the deceased's contributions for the periods referred to in sub-paragraphs (a) and (b) of this paragraph shall not include the amount of any contributions referred to in paragraph (10) of Rule 5 of the Rules as they had effect immediately before 6th April 1975.

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## SEVENTH SCHEDULE

Item No.	Provision of the Rules (1)	On and after 1.01.94 (2)
(1)	Rule 10(2)(c)	£0.08107
(2)	Rule 10(2)(d)	£0.05444
(3)	Rule 10(2)(e)	£0.02527

The amounts specified in column (2) and any subsequent column of the above Table are based in the case of a member whose service in Eligible Employment terminates on and after 1st January 1994 on a complete election having been made in accordance with the provisions of paragraph (5) of Rule 10. In the event of such a complete election not being made the said amounts shall be adjusted in such manner as the Committee of Management may determine on the advice of the Actuary.

## EIGHTH SCHEDULE

### Calculation of Transferable Sums under Rule 28A

#### PART I

**1.** *The aggregate of the Transferable Sums in relation to those members who elect under Rule 28A(2) to transfer to IWS-MPS their accrued pension rights as at the Transfer Date, will be calculated using the projected accrued benefit method with allowance for future increases in (a) earnings until the assumed date of retirement, death or withdrawal from membership and (b) pensions. The allowance for pension increases to be made in the calculation of the Transferable Sums will be by reference to the Retail Prices Index.*

**2.** *The actuarial basis and assumptions that will be used to calculate the Transferable Sums are set out in Sections A and B of Part II of this Appendix. Section A describes the financial assumptions which will be adopted and the adjustments which will be made between the Transfer Date of the members concerned and the date or dates of payment of the Transferable Sum or Sums to IWS-MPS. Section B contains the demographic assumptions to be used for members of the Scheme. Pensionable Age is 60 but the Scheme provides for early retirement on full accrued pension at age 59 and all surviving employees are assumed to retire at age 59.*

#### PART II

### Actuarial Basis and Assumptions

#### Section A

#### Financial Assumptions

*The reserves representing the Transferable Sums will first be calculated on the assumptions set out in (i) below. That value will then be adjusted for market conditions prevailing at the Transfer Date in accordance with the formula in (ii) below. The allowance for investment returns between the Transfer Date and the date, or dates, of payment will be as set out in (iii) below.*

*(i) Derivation of Past Service Reserves*


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(a) Gross rate of investment return	= 9% pa
(b) Rate of return net of earnings increases	= 2% pa
(c) Rate of return net of RPI pension increases	= 3½% pa
(d) Rate of pensions increases on post-1988 GMP	= 3% pa

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*(ii) Adjustment for Market Conditions*

The value of past service reserves shall be adjusted by multiplying the value from (i) above by a factor of

$$0.25 \times \frac{P}{Q} + 0.75 \times \frac{X}{Y}$$

where

*P* = the price of a notional index-linked British Government security of term 20 years, bearing an annual coupon of 2½% per annum, when the yield is equal to the true annual yield at the date of joining on the FT-Actuaries index of index-linked gilt-edged stocks for terms over 5 years at the 5% inflation assumption;

*Q* = the price of the same notional stock calculated assuming a real annual yield of 3½% per annum;

*X* =  $\log_e(1.0425)$ ;

*Y* = the Gross Dividend Yield on the FT-Actuaries All-Share Index at the Transfer Date.

*(iii) Investment Roll-up*

Investment returns will be credited between the Transfer Date and the date, or dates, of payment of the Transferable Sums to IWS-MPS in line with the investment returns achieved by the Scheme, unless those returns are not readily available, in which case a formula-based return following the Adjustment for Market Conditions will be applicable. To facilitate final payment, the investment return for the 7 days prior to the date of final payment shall be at a margin of 1% over the base rate from time to time of Lloyds Bank plc during that period.

Section B

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## Demographic Assumptions

Age Nearest	Death	Independent Decrement Rates per 1000 Members Ill-Health Retirement	Withdrawals	Promotional Salary Scale	Proportion Married	Husband- Wife Age Disparity (years)
16	0.5	5.0	40.0	30	0.005	2
17	0.9	5.0	40.0	48	0.005	2
18	0.9	5.0	40.0	64	0.13	2
19	0.8	5.0	40.0	78	0.21	2
20	0.8	5.0	40.0	84	0.29	2
21	0.7	5.0	40.0	88	0.37	2
22	0.7	5.0	40.0	91	0.45	2
23	0.7	5.5	37.0	94	0.49	2
24	0.6	6.1	34.0	97	0.53	2
25	0.6	6.7	31.0	100	0.57	2
26	0.6	7.3	28.0	103	0.61	2
27	0.6	8.0	25.0	106	0.65	2
28	0.5	8.4	23.0	108	0.68	2
29	0.5	8.8	21.0	109	0.72	2
30	0.5	9.2	19.0	109	0.75	2
31	0.6	9.6	17.0	110	0.79	2
32	0.6	10.0	15.0	111	0.82	2
33	0.6	10.0	14.0	112	0.82	2

A 4%  
addition  
is made  
to age  
retirement  
liabilities  
to allow  
for the  
impact of  
the salary  
averaging  
formula  
covering  
the 13  
years  
prior to  
retirement.

Age Nearest	Death	Independent Decrement Rates per 1000 Members Ill-Health Retirement	Withdrawals	Promotional Salary Scale	Proportion Married	Husband- Wife Age Disparity (years)
34	0.6	10.1	13.0	112	0.82	2
35	0.7	10.2	12.0	112	0.82	2
36	0.7	10.3	11.0	111	0.82	2
37	0.8	10.4	10.0	111	0.82	2
38	0.9	10.4	10.0	111	0.82	2
39	1.0	10.4	10.0	111	0.82	2
40	1.1	10.5	10.0	111	0.82	2
41	1.3	10.6	10.0	110	0.82	2
42	1.4	10.7	10.0	110	0.82	2
43	1.6	10.7	9.5	110	0.82	2
44	1.8	10.7	9.1	109	0.82	2
45	2.1	10.7	8.7	108	0.82	2
46	2.3	10.8	8.3	108	0.82	2
47	2.7	11.0	8.0	107	0.82	2
48	3.0	11.3	7.0	107	0.82	2
49	3.4	12.0	6.0	106	0.81	2
50	3.8	13.0	5.0	104	0.81	2
51	4.3	14.0	4.6	102	0.80	2
52	4.8	15.0	4.2	100	0.80	2

A 4%  
addition  
is made  
to age  
retirement  
liabilities  
to allow  
for the  
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the salary  
averaging  
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years  
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Age Nearest	Death	Independent Decrement Rates per 1000 Members	Ill-Health Retirement	Withdrawals	Promotional Salary Scale	Proportion Married	Husband-Wife Age Disparity (years)
53	5.4	16.0	3.8	99	0.80	2	
54	6.0	17.0	3.4	98	0.80	2	
55	6.7	18.0	3.0	97	0.79	2	
56	7.5	19.0	2.4	95	0.79	2	
57	8.5	20.0	1.8	93	0.79	2	
58	9.4	21.0	1.2	91	0.78	2	
59	—	—	—	89	0.77	2	

A 4% addition is made to age retirement liabilities to allow for the impact of the salary averaging formula covering the 13 years prior to retirement.

Pensioner Mortality Rates

Age Nearest	Age Retirements and Deferrees	Widows' Mortality	Ill-health Retirements: Dur'n 0	Dur'n 1	Ultimate
20	0.0008	0.0005	0.0310	0.0232	0.0155
21	0.0008	0.0005	0.0309	0.0232	0.0155
22	0.0007	0.0005	0.0309	0.0232	0.0154
23	0.0007	0.0005	0.0308	0.0231	0.0154
24	0.0007	0.0005	0.0308	0.0231	0.0154
25	0.0006	0.0005	0.0308	0.0231	0.0154



Age Nearest	Age Retirements and Deferrees	Widows' Mortality	Ill-health Retirements: Dur'n 0	Dur'n 1	Ultimate
26	0.0006	0.0005	0.0308	0.0231	0.0154
27	0.0006	0.0005	0.0308	0.0231	0.0154
28	0.0006	0.0006	0.0308	0.0231	0.0154
29	0.0006	0.0006	0.0308	0.0231	0.0154
30	0.0006	0.0006	0.0309	0.0231	0.0154
31	0.0006	0.0007	0.0309	0.0232	0.0155
32	0.0006	0.0007	0.0310	0.0232	0.0155
33	0.0006	0.0008	0.0311	0.0233	0.0155
34	0.0007	0.0009	0.0312	0.0234	0.0156
35	0.0007	0.0010	0.0313	0.0235	0.0156
36	0.0008	0.0011	0.0314	0.0236	0.0157
37	0.0009	0.0012	0.0316	0.0237	0.0158
38	0.0010	0.0013	0.0318	0.0239	0.0159
39	0.0011	0.0014	0.0321	0.0240	0.0160
40	0.0012	0.0015	0.0323	0.0242	0.0162
41	0.0013	0.0017	0.0326	0.0245	0.0163
42	0.0015	0.0019	0.0330	0.0247	0.0165
43	0.0017	0.0020	0.0333	0.0250	0.0167
44	0.0019	0.0023	0.0338	0.0253	0.0169
45	0.0022	0.0025	0.0343	0.0257	0.0171
46	0.0025	0.0028	0.0348	0.0261	0.0174
47	0.0028	0.0030	0.0354	0.0266	0.0177
48	0.0031	0.0034	0.0361	0.0271	0.0180
49	0.0035	0.0037	0.0368	0.0276	0.0184
50	0.0040	0.0041	0.0377	0.0283	0.0188
51	0.0045	0.0045	0.0386	0.0290	0.0193
52	0.0050	0.0050	0.0396	0.0297	0.0198
53	0.0056	0.0055	0.0406	0.0305	0.0203
54	0.0063	0.0061	0.0418	0.0314	0.0209
55	0.0070	0.0067	0.0432	0.0324	0.0216
56	0.0078	0.0073	0.0447	0.0336	0.0224

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Age Nearest	Age Retirements and Deferrees	Widows' Mortality	Ill-health Retirements: Dur'n 0	Dur'n 1	Ultimate
57	0.0087	0.0079	0.0465	0.0349	0.0232
58	0.0097	0.0086	0.0486	0.0364	0.0243
59	0.0108	0.0094	—	0.0382	0.0255
60	0.0121	0.0102	—	—	0.0268
61	0.0136	0.0112	—	—	0.0284
62	0.0153	0.0123	—	—	0.0301
63	0.0172	0.0134	—	—	0.0320
64	0.0193	0.0147	—	—	0.0341
65	0.0216	0.0161	—	—	0.0365
66	0.0240	0.0176	—	—	0.0392
67	0.0267	0.0192	—	—	0.0422
68	0.0296	0.0210	—	—	0.0455
69	0.0329	0.0230	—	—	0.0491
70	0.0365	0.0251	—	—	0.0531
71	0.0405	0.0275	—	—	0.0575
72	0.0448	0.0300	—	—	0.0623
73	0.0495	0.0328	—	—	0.0675
74	0.0547	0.0359	—	—	0.0732
75	0.0602	0.0392	—	—	0.0794
76	0.0662	0.0429	—	—	0.0861
77	0.0726	0.0468	—	—	0.0933
78	0.0795	0.0511	—	—	0.1011
79	0.0868	0.0558	—	—	0.1094
80	0.0946	0.0609	—	—	0.1183
81	0.1028	0.0673	—	—	0.1278
82	0.1115	0.0751	—	—	0.1379
83	0.1206	0.0835	—	—	0.1485
84	0.1301	0.0926	—	—	0.1597
85	0.1399	0.1025	—	—	0.1715
86	0.1501	0.1130	—	—	0.1839
87	0.1607	0.1242	—	—	0.1968

Age Nearest	Age Retirements and Deferrees	Widows' Mortality	Ill-health Retirements: Dur'n 0	Dur'n 1	Ultimate
88	0.1715	0.1361	—	—	0.2102
89	0.1825	0.1486	—	—	0.2242
90	0.1937	0.1617	—	—	0.2386
91	0.2063	0.1753	—	—	0.2537
92	0.2205	0.1895	—	—	0.2696
93	0.2350	0.2040	—	—	0.2862
94	0.2503	0.2189	—	—	0.3036
95	0.2662	0.2320	—	—	0.3217
96	0.2829	0.2436	—	—	0.3406
97	0.3002	0.2559	—	—	0.3602
98	0.3183	0.2689	—	—	0.3806
99	0.3370	0.2826	—	—	0.4017
100	0.3565	0.2971	—	—	0.4234
101	0.3765	0.3124	—	—	0.4458
102	0.3972	0.3285	—	—	0.4688
103	0.4185	0.3455	—	—	0.4924
104	0.4404	0.3633	—	—	0.5165
105	0.4628	0.3821	—	—	0.5410
106	0.4856	0.4018	—	—	0.5660
107	0.5089	0.4224	—	—	0.5913
108	0.5326	0.4439	—	—	0.6134
109	0.5565	0.4664	—	—	0.6354
110	0.5807	0.4899	—	—	0.6573
111	0.6028	0.5123	—	—	0.6789
112	0.6248	0.5355	—	—	0.7003
113	0.6467	0.5593	—	—	0.7213
114	0.6684	0.5837	—	—	0.7419
115	0.6897	0.6086	—	—	0.7619
116	0.7107	0.6340	—	—	0.7813
117	0.7312	0.6596	—	—	1.0000
118	0.7511	0.6854	—	—	0.0000

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Age Nearest	Age Retirements and Deferrees	Widows' Mortality	Ill-health Retirements: Dur'n 0	Dur'n 1	Ultimate
119	0.7704	0.7111	—	—	0.0000
120	1.0000	1.0000	—	—	0.0000

#### NINTH SCHEDULE

Record of Bonus Augmentations, Crystallised Augmentations and Guaranteed Crystallised Augmentations”

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are concerned with the Mineworkers' Pension Scheme which was established under regulations made under section 37 of the Coal Industry Nationalisation Act 1946.

These Regulations—

- (a) continue the Scheme in force notwithstanding the repeal by the Coal Industry Act 1994 of section 37 of the Coal Industry Nationalisation Act 1946 and of the enactments modifying that section; and
- (b) modify the Scheme in accordance with paragraph 2 of Schedule 5 to the Coal Industry Act 1994.