



# Coal Industry Act 1987

## 1987 CHAPTER 3

### *Participation by representative organisations*

#### 5 Coal industry trusts. **E+W+S**

- (1) If, on application to the [<sup>F1</sup>Charity Commission (“the Commission”)] by an employee organisation, it appears [<sup>F2</sup>to the Commission]—
- (a) that the members of the organisation or the members and their dependants constitute a substantial proportion of those who may benefit under a trust to which this section applies; and
  - (b) that neither the organisation nor its members are entitled to appoint any of the trustees of the trust,
- the [<sup>F3</sup>Commission] may by order make a scheme making such amendments of the provisions regulating the trust as [<sup>F4</sup>the Commission considers] appropriate for the purpose of securing fair representation amongst the trustees of those persons employed in the coal industry who may benefit under the trust.
- (2) A scheme under subsection (1) above in respect of a trust may—
- (a) make such provision as to the manner in which the trustees are to be appointed as the [<sup>F5</sup>Commission considers] appropriate;
  - (b) restrict or remove any person’s right to appoint a trustee;
  - (c) remove any trustee; and
  - (d) make such further amendments of the provisions regulating the trust (whether or not for the purpose mentioned in subsection (1) above) as the [<sup>F5</sup>Commission considers] appropriate.
- (3) This section applies to any trust for purposes which are exclusively charitable according to the law of England and Wales—
- (a) which is a trust of property wholly or partly representing an application of money from the miners’ welfare fund constituted under section 20 of the <sup>M1</sup>Mining Industry Act 1920 or the body known as the Coal Industry Social Welfare Organisation;
  - (b) which is a trust expressed to be for the benefit of—

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- (i) persons currently or formerly employed in the coal industry or any class of such persons or their dependants; or
    - (ii) members of the mining community in general or of the mining community of a particular area,

whether or not any other persons are also beneficiaries; or

  - (c) under the terms of which all or a majority of the trustees are appointed by the body mentioned in paragraph (a) above or are appointed by the Corporation and an employee organisation.
- [<sup>F6</sup>(4) In this section “an employee organisation” means any organisation appearing to the [<sup>F7</sup>Commission] to represent in respect of their employment a substantial number of persons whose employers are licensed operators within the meaning of the Coal Industry Act 1994, or who are all employed by the same licensed operator.]
- (5) References in this section to the trustees of a trust include references to the members of any body a function of which is to hold property subject to the trust or to perform any administrative functions in relation to the trust and, in relation to the members of such a body, references in this section to the appointment of trustees shall be construed as references to any corresponding procedure under the provisions relating to the constitution of the body.
- (6) Where any functions relating to a trust are exercisable by more than one body of trustees, for the purposes of subsection (1)(b) above the [<sup>F8</sup>Commission] may disregard or have regard only to the members of one of those bodies.
- (7) The [<sup>F9</sup>Commission] shall not exercise [<sup>F10</sup>its powers] under this section in any case which [<sup>F11</sup>it considers], by reason of any special question of law or of fact which it may involve, more fit to be adjudicated on by the court (within the meaning of [<sup>F12</sup>the Charities Act 2011]).
- [<sup>F13</sup>(8) Sections 70(1), 71, [<sup>F14</sup>73(1), (2) and (5)], 74, 88 and 89 of the Charities Act 2011 apply in relation to the powers of the Commission and the making of schemes under this section as they apply in relation to its powers and the making of schemes under that Act and sections 337 and 339 of that Act apply to orders and decisions under this section as they apply to orders and decisions under that Act.
- (8A) The Commission must not proceed under section 73 of that Act (as applied by subsection (8)) without the same application and notice to the trustees of the trust in question, as would be required if the Commission was proceeding under subsection (1); but on any application made with a view to a scheme under subsection (1) the Commission may proceed under that subsection or under section 73 of that Act (as so applied) as appears to it appropriate.
- (8B) Chapter 2 of Part 17 of, and Schedule 6 to, the Charities Act 2011 (appeals and applications to Tribunal) apply in relation to an order made under this section as they apply in relation to an order made under section 69(1) of that Act.]
- (9) Nothing in this section shall affect any other powers exercisable by the [<sup>F15</sup>Commission] or the High Court in relation to any trust to which this section applies.
- (10) In the application of this section to Scotland—
- (a) for the reference in subsection (3) to purposes which are exclusively charitable according to the law of England and Wales there shall be substituted a reference to purposes which are charitable, benevolent or philanthropic (whether or not they are charitable within the meaning of any rule of law);

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- (b) references to the [<sup>F16</sup>Commission] shall be construed as references to the Court of Session; and
- (c) subsections (7) and (8) above shall be omitted.

#### Textual Amendments

- F1** Words in s. 5(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(2)(a)**; S.I. 2007/309, art. 2, Sch.
- F2** Words in s. 5(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(2)(b)**; S.I. 2007/309, art. 2, Sch.
- F3** Word in s. 5(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(2)(c)**; S.I. 2007/309, art. 2, Sch.
- F4** Words in s. 5(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(2)(d)**; S.I. 2007/309, art. 2, Sch.
- F5** Words in s. 5(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(3)**; S.I. 2007/309, art. 2, Sch.
- F6** S. 5(4) substituted (31.10.1994) by 1994 c. 21, ss. 7, 67(1), 68(2)(d), **Sch. 9 para. 36(b)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F7** Word in s. 5(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(4)**; S.I. 2007/309, art. 2, Sch.
- F8** Word in s. 5(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(4)**; S.I. 2007/309, art. 2, Sch.
- F9** Word in s. 5(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(5)(a)**; S.I. 2007/309, art. 2, Sch.
- F10** Words in s. 5(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(5)(b)**; S.I. 2007/309, art. 2, Sch.
- F11** Words in s. 5(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(5)(c)**; S.I. 2007/309, art. 2, Sch.
- F12** Words in s. 5(7) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 47(1)** (with s. 20(2), Sch. 8)
- F13** S. 5(8)-(8B) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 47(2)** (with s. 20(2), Sch. 8)
- F14** Words in s. 5(8) substituted (31.10.2022) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 12**; S.I. 2022/1109, Sch. para. 11(c)
- F15** Word in s. 5(9) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(9)**; S.I. 2007/309, art. 2, Sch.
- F16** Word in s. 5(10)(b) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 80(10)**; S.I. 2007/309, art. 2, Sch.

#### Modifications etc. (not altering text)

- C1** S. 5 amended (31.10.1994) by 1994 c. 21, ss. 7, 67(1), 68(2)(d), **Sch. 9 para. 36(a)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

#### Marginal Citations

- M1** 1920 c.50.

<sup>F17</sup>6 Other social welfare bodies. **E+W+S**

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### Textual Amendments

**F17** S. 6 repealed (27.3.2004) by [Coal Industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 11 Pt. III](#) (with [Sch. 10 para. 11](#)); [S.I. 2004/144](#), art. 2, [Sch.](#)

## 7 Superannuation schemes, etc. **E+W+S**

- (1) If, after receiving representations from the Corporation, the Secretary of State considers that a scheme established under section 37 of the <sup>M2</sup>Coal Industry Nationalisation Act 1946 (provisions as to superannuation etc. rights) does not provide for participation in any function conferred under the scheme by any organisation which appears to him to represent a substantial proportion of the members of the scheme, the Secretary of State may by order make such amendments of the scheme as he considers appropriate to secure such participation by that organisation.
- (2) Before making an order amending a scheme under this section the Secretary of State shall consult the Corporation and any organisation which appears to him to represent a substantial proportion of the members of the scheme (other than any organisation representing members who are also represented by another organisation which he has consulted).
- (3) References in this section to the members of a scheme do not include members who have ceased to be liable to pay contributions under the scheme.
- (4) References in this section to participation by an organisation include participation by any person as a nominee or on behalf of the organisation.
- <sup>F18</sup>(5) . . . . .
- (6) An order amending a scheme under this section may make—
  - (a) such consequential and supplementary amendments of the scheme; and
  - (b) without prejudice to paragraph (a) above, such amendments of any provisions in the scheme relating to the quorum necessary for the making of decisions relating to the scheme,
 as the Secretary of State considers appropriate.
- (7) The fact that a provision of a scheme has been added or amended by an order under this section shall not preclude its subsequent alteration or deletion in accordance with the scheme.
- (8) The power to make an order under this section shall be exercisable by statutory instrument and an instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The power to make an order under this section may only be exercised once as respects any scheme unless it is exercised—
  - (a) before an order previously made under this section has come into force; and
  - (b) so as to amend or revoke that order;
 but for the purposes of this subsection the making of an order which is annulled under subsection (8) above or quashed under section 8 below shall be disregarded.]

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**Textual Amendments**

**F18** S. 7(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 12

**Marginal Citations**

**M2** 1946 c. 59.

**8 Proceedings for questioning validity of orders under sections 6 and 7. E+W+S**

- (1) If any person is aggrieved by an order made under section 6 or 7 above and desires to question its validity on the ground that the order is not within the powers of the Secretary of State or that any requirements under that section have not been complied with in relation to it he may, within 42 days beginning with the date on which a copy of the statutory instrument containing the order is laid before Parliament (or if such copies are laid on different days, with the later of the two days), make an application to the court under this section.
- (2) If on an application under this section the court is satisfied that the order was not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements in relation to the order the court may quash the order.
- (3) Except as provided by this section, the validity of such an order shall not be questioned in any legal proceedings whatever.
- (4) In this section “the court” means—
  - (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session.

**Changes to legislation:**

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