

1970 No. 376

## SOCIAL SECURITY

**The National Insurance (Industrial Injuries) (Colliery Workers  
Supplementary Scheme) Amendment & Consolidation  
Order 1970**

*Laid before Parliament in Draft*

*Made - - - 9th March 1970*  
*Coming into Operation 29th March 1970*

Whereas the National Committee for the time being constituted in accordance with the Supplementary Scheme set out in Schedule 1 to the National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment and Consolidation Order 1963(a) as subsequently varied and amended (b) is the body charged with the administration of that Scheme and has requested the Secretary of State to vary and amend the provisions of the said Supplementary Scheme in manner hereinafter appearing :—

And whereas the Secretary of State is of opinion that the provisions of the said Supplementary Scheme should be replaced with new provisions consolidating those provisions as they are to have effect with the amendments, variations or modifications to be made by this Order :—

Now, therefore, the Secretary of State, in exercise of his powers under section 47 of the National Insurance Act 1965(c) as applied by section 82(2) of the National Insurance (Industrial Injuries) Act 1965(d) and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before Parliament and has been approved by resolution of each House of Parliament :—

*Citation, commencement and interpretation*

1.—(1) This Order, which may be cited as the National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment and Consolidation Order 1970, shall come into operation on 29th March 1970.

(2) In this Order “the Scheme” means the Supplementary Scheme set out in Schedule 1 to the National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment and Consolidation Order 1963 as varied and amended.

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(a) S.I. 1963/934 (1963 II, p. 1559).

(b) S.I. 1965/535, 1966/1011, 1967/1550, 1968/83, 1896, 1969/716, 1646 (1965 I, p. 1543; 1966 II, p. 2412; 1967 III, p. 4313; 1968 I, p. 266; III, p. 5039; 1969 II, p. 1947; III, p. 5188).

(c) 1965 c. 51.

(d) 1965 c. 52.

*Amendment of Article 1 of the Scheme*

2. In Article 1(1) of the Scheme (Definitions) the definitions "Division", "the Local Committees", "the appropriate Local Committee" and "supplementary contributions" shall be omitted and in each of the definitions of "colliery worker", "colliery accident" and "colliery disease" there shall be inserted, immediately after the words "5th July 1948", the words "but before 30th March 1970".

*Amendment of Articles 2 to 11 of the Scheme*

3. For Articles 2 to 11 inclusive of the Scheme there shall be substituted the following Articles :—

*"Fund established for purposes of Scheme*

2. The Scheme shall supplement the rights conferred by the Act on colliery workers by providing additional payments in cases in which disablement benefit or a death benefit to a widow or to a woman having care of a deceased colliery worker's child or children becomes payable under the Act in respect of a colliery accident or colliery disease and the moneys received by the National Committee in accordance with the Scheme and the investments for the time being representing the same shall constitute the Fund.

*Arrangements for maintaining Fund and review of Scheme*

3.—(1) The Board shall pay to the National Committee £125,000 in respect of each accounting period in the period commencing 29th March 1970 and ending on the day immediately preceding the first contribution date certified pursuant to paragraph (2) of this Article.

(2) The Actuary shall review the operation of the Scheme after every five years or such shorter period as the Secretary of State or the National Committee may direct and after each such review make a report to the Secretary of State on the financial condition of the Fund and certify—

(a) the annual sum which, in his opinion, is required to be paid by the Board to the National Committee over the period of such number of financial years of the Board not exceeding 20 as shall be determined by the Board to secure the supplementary benefits after the period covered by the review; and

(b) the date, being the commencement of an accounting period, from which the number of such years determined as aforesaid is to run, such date to be known as the contribution date.

The period to be covered by any such review shall commence immediately after the period covered by the preceding review.

(3) A copy of every report made and certificate given by the Actuary pursuant to this Article shall be sent to the National Committee and to each of the bodies having the right to make appointments to the National Committee.

(4) When, at any time after 29th March 1970, the Actuary certifies pursuant to paragraph (2) hereof the annual sum which in his opinion is required to be paid by the Board for the specified number of years, the Board shall, with effect from the contribution date specified in that certificate, pay to the National Committee a sum equal to one twelfth of the annual sum so certified in respect of each accounting period in the specified number

of years or, if any further certificate shall be given pursuant to paragraph (2) hereof before the expiry of such number of years, in respect of each such accounting period falling before the contribution date specified in the next following further certificate so given.

(5) If any alterations shall be made in the rates of contributions or amount or periods of benefits under the Act or in the national minimum wage rates or if any report of the Actuary pursuant to this Article shall have disclosed a surplus or a deficiency in the Fund then in any such case the National Committee shall review the Scheme and shall recommend to the Secretary of State such amendments or variations thereof (if any) as the National Committee shall consider desirable."

*Amendment of Article 12 of the Scheme*

4. In Article 12 of the Scheme there shall be made the following amendments:—

(a) Article 12(1)(a) shall be omitted;

(b) for Article 12(1)(b)(ii) there shall be substituted:—

"(ii) for any period during which the beneficiary is under the age 18 and not for the time being entitled under the Act to an increase of benefit in respect of a child or adult dependant there shall be substituted for the reference to 2s. 6d. a reference, for a period during which he is between the ages of 17 and 18, to 1s. 10d. and, for a period during which he is under the age of 17, to 1s. 3d.;"

(c) In Article 12(2)(a) the words "injury benefit or" in both places where those words occur shall be omitted;

(d) for Article 12(2)(b) there shall be substituted:—

"(b) where a person suffers two or more colliery accidents and/or colliery diseases he shall not for the same period be entitled to receive supplementary benefit at an aggregate weekly rate exceeding the weekly rate of the supplementary disablement pension appropriate in his case to an assessment of disablement of 100 per cent.;"

(e) in Article 12(3) the words "to the rate of injury benefit or" "such rate or" where those words first occur and "rate or" where they occur again shall be omitted; and

(f) Article 12(4) shall be omitted.

*Amendment of Article 13 of the Scheme*

5. In Article 13 of the Scheme for the expression "4 weeks" there shall be substituted the expression "26 weeks".

*Omission of Article 14A of the Scheme*

6. Article 14A of the Scheme shall be omitted.

*Amendment of Article 15 of the Scheme*

7. In Article 15 of the Scheme the words "supplementary injury benefit or", "other than any part of the first two weeks of such period for which that person is not entitled to earnings-related supplement under the National Insurance Act 1965", "such benefit or" and "after adjustment in accordance with Article 14A hereof" shall be omitted.

*Amendment of Article 16 of the Scheme*

**8.** In Article 16 of the Scheme there shall be made the following amendments:—

- (a) In the heading to Article 16 for the words “an incapacity retirement pension under the Mineworkers’ Pension Scheme” there shall be substituted the words “a pension under another scheme”;
- (b) In Article 16 the words “commencing on or after 3rd April 1961”, “supplementary injury benefit or”, “the said supplementary injury benefit or” and “such supplementary injury benefit or” shall be omitted; and
- (c) after Article 16, as amended in accordance with the foregoing, which shall be renumbered Article 16(1), there shall be added the following paragraph:—

“(2) Notwithstanding any other provisions of the Scheme a colliery worker shall not be entitled to supplementary disablement benefit under the Scheme in respect of any degree of disablement for any period in respect of which that degree of disablement has been taken into account in connection with the payment to him of a pension under Rule 14B of the Mineworkers’ Pension Scheme or under any comparable provision of any other scheme established by the Board.”

*Amendment of Article 17 of the Scheme*

**9.** In Article 17(1)(c) of the Scheme for the words “the appropriate Local Committee” there shall be substituted the words “the National Committee”.

*Omission of Article 18 of the Scheme*

**10.** Article 18 of the Scheme shall be omitted.

*Amendment of Article 21 of the Scheme*

**11.** In Article 21 of the Scheme there shall be made the following amendments:—

- (a) In Article 21(1) after the words “supplementary benefits” there shall be inserted the words “other than a person in receipt of such benefits by virtue of the provisions of Article 12(1)(d) or 12(1)(f) hereof where the colliery worker in respect of whose death such benefit is payable had attained the age of 60 before the date of his death”;
- (b) In Article 21(7) immediately before the words “set out” there shall be inserted the words “as would have been” and immediately before the words “and the amount of such pension” there shall be inserted the words “but for the coming into operation of the National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations 1967 or any subsequent regulations increasing that rate”.

*Amendment of Article 22 of the Scheme*

**12.** In Article 22 of the Scheme for all the words from “to whom any benefit is payable” to the end of the Article there shall be substituted the words “in respect of any period by reference to any disablement pension or pensions payable to him by virtue of regulation 31(2) of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964, shall not exceed £33 6s. 8d. or the total amount payable by way of supplementary disablement pension for a period of one year, whichever is the less”.

*Amendment of Article 31 of the Scheme*

**13.** In Article 31(1) of the Scheme, for all the words from “in the first instance” to the end of the paragraph inclusive, there shall be substituted the words “by the National Committee whose decision thereon shall be final.”

*Omission of Article 32 of the Scheme*

**14.** Article 32 of the Scheme shall be omitted.

*Amendment of Article 33 of the Scheme*

**15.** In Article 33 of the Scheme for all the words from “to any Local Committee” to the end of the Article there shall be substituted the words “to the National Committee which shall determine any question or dispute referred to it hereunder and its decision shall be final.”

*Amendment of Article 34 of the Scheme*

**16.** In Article 34 of the Scheme the words “to a Local Committee or” and the words “(subject to an appeal from the Local Committee to the National Committee)” shall be omitted.

*Amendment of Article 35 of the Scheme*

**17.** In Article 35 of the Scheme for the words “the procedure of the Local Committees and the National Committee in the conduct of references to them respectively and of appeals from the Local Committees to the National Committee” there shall be substituted the words “its procedure in the conduct of references to it”, for the words “they may act in determining questions and disputes submitted to them” there shall be substituted the words “it may act in determining questions and disputes submitted to it” and the words “the Local Committee or as the case may be” shall be omitted.

*Omission of Article 37 of the Scheme*

**18.** Article 37 of the Scheme shall be omitted.

*Amendment of Article 46 of the Scheme*

**19.** In Article 46 of the Scheme the words “or of a Local Committee” shall be omitted and for the words “of the National Committee” where those words first occur there shall be substituted the word “thereof”.

*Omission of Article 47 of the Scheme*

**20.** Article 47 of the Scheme shall be omitted.

*Amendment of Article 49 of the Scheme*

**21.** In Article 49 of the Scheme the words “not being securities to bearer” shall be omitted.

*Amendment of Article 50 of the Scheme*

**22.** In Article 50 of the Scheme the words “not being money on deposit or current account with any bank or banking house in Great Britain” shall be omitted.

*Substitution for Article 52 of the Scheme*

**23.** For Article 52 of the Scheme there shall be substituted the following Article :—

*“Investments*

**52.**—(1) The following are authorised securities for the purposes of the Scheme :—

- (a) Deposits with any bank, banking or discount company or with a building society as defined in section 1(4) of the Building Societies' Act 1962.
- (b) Immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands or any share or interest in such property, including any interest in such property comprised in a building agreement providing for the grant of a lease of such property contingently on the erection of the building specified in such agreement.
- (c) Policies of insurance.
- (d) Loans upon the security of—
  - (i) any such immovable property or interest in immovable property as is mentioned in sub-paragraph (b) hereof,
  - (ii) any such policies or securities as are mentioned in sub-paragraph (c), (g), (h) or (i) hereof,
  - (iii) any such shares or investments as are mentioned in sub-paragraph (j) or (k) hereof, or
  - (iv) the rates, revenues, funds, property or profits of or leviable by, or belonging to, any such authority as is mentioned in sub-paragraph (h)(iii) hereof.
- (e) Loans to the Board.
- (f) Unsecured loans to property companies.
- (g) Debentures of any company incorporated with limited liability in the United Kingdom and comparable obligations of any body corporate incorporated under the law of any other country or territory.
- (h) Securities issued by—
  - (i) the government of any country or territory,
  - (ii) any public authority or body corporate operating a canal, dock, electricity, gas, harbour, railway, shipping, tramway, transport or water undertaking under statutory or other powers conferred by the law of any country or territory, or
  - (iii) any authority to which paragraph 9 of Part II of the First Schedule to the Trustee Investment Act 1961 applies or any comparable authority outside the United Kingdom.
- (i) Securities the capital of which or a minimum rate of interest or dividend on which is guaranteed by the government of any country or territory.
- (j) Shares of any company incorporated with limited liability in the United Kingdom.
- (k) Investments outside the United Kingdom which are—
  - (i) investments of the kind specified, in relation to the United Kingdom, in sub-paragraph (j) hereof, or

- (ii) units, or any other shares in the investments subject to the trust, of a unit or similar trust scheme.
  - (l) Investments, other than investments of the kind specified in sub-paragraphs (a) to (k) hereof, in which trustees are for the time being authorised to invest property in their hands.
- (2) No money shall be invested—
- (a) in restricted investments at any time when the total value of all restricted investments held by the Scheme equals or exceeds 75 per cent of the total value of the assets of the Scheme ;
  - (b) in restricted investments which are the shares of any company which was incorporated or commenced trading within the previous two years at any time when the total value of all restricted investments held by the Scheme which are the shares of such companies equals or exceeds  $33\frac{1}{3}$  per cent of the total value of all restricted investments held by the Scheme ; or
  - (c) in restricted investments of the kind specified in sub-paragraphs (j) or (k) of paragraph (1) hereof (other than the shares of such property companies), which are not quoted, or permitted to be dealt in, on the London Stock Exchange at any time when the total value of all restricted investments of such kinds (other than shares of property companies) which are not so quoted or permitted to be dealt in held by the Scheme equals or exceeds 10 per cent of the total value of all restricted investments held by the Scheme.
- (3) For the purposes of paragraph (2) of this Article value shall be taken at cost and a certificate of the Auditors as to the total value of the assets of the Scheme or of any class of investments specified in the said paragraph shall be conclusive.
- (4) The National Committee at its discretion may at any time vary any investments held including any immovable property or any shares or interest therein whensoever acquired.
- (5) As to all such immovable property (whether purchased alone or jointly or in common with any other person or corporation) the National Committee shall have and may exercise or join in exercising all the powers of management or superintending the management thereof referred to in section 102 of the Settled Land Act 1925, and also generally all the powers conferred upon a tenant for life or the trustees of a settlement under the said Act and by way of extension of such powers, power to carry out with moneys forming part of the Fund any improvements of any kind to land or buildings (whether referred to in the said Act or not and including the erection, demolition and reconstruction of any buildings) and may grant, or join in granting, leases of any kind for any term not exceeding 999 years and on such terms or conditions as may be thought desirable and may grant or join in granting options.
- (6) Where any such immovable property is purchased jointly or in common with any other person or corporation the National Committee may if it thinks fit arrange—
- (a) for the vesting of the property in a trustee (whether or not being the Nominee or Custodian Trustee appointed under Article 50 or such other person or corporation beneficially interested in the property) for the National Committee and such other person or corporation ;

- (b) for conferring on such trustee all or any of the powers of management and extended powers referred to in paragraph (5) of this Article in relation to the property or for delegating to such trustee the exercise of all or any of such powers ; and
- (c) for the trusts to be kept off the title and such trustee to hold the property as if absolute owner thereof and to carry out transactions as to the property as if such an owner.

(7) The National Committee shall have power where any such immovable property or any share or interest therein is held on behalf of the National Committee by a Nominee or Custodian Trustee appointed under Article 50 to direct such Nominee or Trustee to carry into effect any decision of the National Committee within its powers and if the National Committee thinks fit it may arrange for the trusts to be kept off the title and the Nominee or Custodian Trustee to hold the property as if absolute owner thereof and to carry out transactions as to the property as if such an owner.

(8) The National Committee shall have power to enter into bonds for the due performance of obligations undertaken by itself or its nominees in connection with the exercise of any of its powers under this Article or to indemnify any other person entering with the consent of the National Committee into a bond for the due performance of such obligations.

(9) The power of the National Committee to invest in immovable property or any interest in such property shall include power so to invest whether alone or jointly or in common with any other person or corporation, and its power to invest in loans upon the security of any such property or interest shall include power so to invest whether the security be taken by a separate and distinct mortgage or security made exclusively to or in trust for the National Committee or by a mortgage or security made to or in trust for it jointly with any other person or corporation who may contribute to the total amount lent on such mortgage or security and although the National Committee may not obtain the whole or any portion of the estate or interest in such immovable property therein comprised.

(10) In this Article—

- (a) “debentures” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes ;
- (b) “property company” means a company incorporated in the United Kingdom which has the acquisition and development of immovable property as a main object and is approved for the purpose of this Article by the Board ;
- (c) “restricted investments” means investments which are authorised investments by virtue of sub-paragraph (d)(iii), (f), (j) or (k) of paragraph (1) of this Article but not by virtue of any other sub-paragraph;
- (d) “securities” includes shares and debentures, Treasury Bills and Exchequer Bills issued by the government of the United Kingdom, and any similar Bills issued by the government of any other country or territory ;
- (e) “shares” include stock ;
- (f) “territory” includes
  - (i) any state or province of any territory specified for the time being in section 1(3) of the British Nationality Act 1948 ;
  - (ii) any colony ;



- (iii) the Isle of Man and the Channel Islands ; and
- (iv) any protectorate, protected State or trust territory within the meaning of the said Act ; and
- (g) references in sub-paragraphs (b) and (c) of paragraph (2) of this Article to shares and investments of particular kinds or classes include references to loans upon the security of shares and investments of these kinds or classes.”

*Omission of Articles 58, 59 and 60 of the Scheme*

24. Articles 58, 59 and 60 of the Scheme shall be omitted.

*Consolidation, revocation and transitional provisions*

25.—(1) As from 29th March 1970, the provisions of the Scheme (hereafter in this Article referred to as “the old provisions”) shall be replaced by the provisions (hereafter in this Article referred to as “the new provisions”) set out in Schedule 1 to this Order being provisions consolidating the old provisions as they are to have effect with amendments made by this Order.

(2) As from 29th March 1970, the orders specified in Schedule 2 to this Order are hereby revoked :

Provided that anything done under the old provisions and of effect immediately before the coming into operation of the new provisions shall, in so far as is necessary for securing the continuity of the new provisions with the old provisions, continue to have effect as if done under the new provisions.

Signed by authority of the Secretary of State for Social Services.

*David Ennals,*

Minister of State,

Department of Health and Social Security.

9th March 1970.

Article 25

SCHEDULE 1

THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) COLLIERY WORKERS  
SUPPLEMENTARY SCHEME

*Definitions*

1.—(1) In this Scheme the expressions following shall have the following meanings where the context so admits:—

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

“The Secretary of State” means the Secretary of State for Social Services.

“The Board” means the National Coal Board.

“small mine owner” 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 (other than opencast working) by virtue of a licence granted by the Board under section 36(2)(a) of the Coal Industry Nationalisation Act 1946(b).

“The Scheme” means this Scheme as originally made or as from time to time varied, amended or modified.

“The National Committee” means the National Committee for the time being constituted in accordance with the Scheme.

(a) 1965 c. 52.

(b) 9 & 10 Geo. 6. c. 59.

“The Fund” means the Fund established by the Scheme and the cash and investments for the time being representing the same.

“supplementary benefits” means the benefits provided under the Scheme.

“accounting period” means any such period as shall be determined by the Board in accordance with the following provisions, that is to say—

- (i) for any period after 27th March 1965 the interval between the beginning and end of any financial year of the Board, as defined in section 2 of the Coal Industry Act 1962(a), shall consist of 12 periods;
- (ii) every such period shall consist of 4, 5 or 6 weeks.

“The Auditors” means such persons as the National Committee with the approval of the Secretary of State shall from time to time appoint to act as Auditors to the Scheme.

“The Actuary” means such person as the National Committee with the approval of the Secretary of State shall from time to time appoint to act as Actuary to the Scheme.

“certified employment” means an insurable employment which is for the time being certified for the purposes of the Scheme by the Board and the National Union of Mineworkers to be within the coal mining industry or, if the Board and the National Union of Mineworkers cannot agree, is so determined in accordance with Article 23 of the Scheme.

“checkweigher” means a checkweigher appointed for the purposes of the Coal Mines Regulation Act 1887(b), by the persons employed at a mine.

“pick-sharpener” means a pick-sharpener or tool sharpener.

“workmen’s inspector” means a person who is a member of a panel appointed under section 123(1) of the Mines and Quarries Act 1954(c), and who is in the regular employment either of the Board or of a small mine owner or who is a checkweigher.

“accident site observer” means a person who is in the regular employment either of the Board or of a small mine owner or who is a checkweigher and who, being either nominated pursuant to section 116(1) of the Mines and Quarries Act 1954, or the nominee of a person so nominated, is attending at any place at which an accident or dangerous occurrence has happened or performing any other duty pursuant to any consent given by an Inspector for the purposes of section 120 of that Act.

“employer” in relation to a colliery worker means the person or body from whom the pecuniary remuneration in respect of his employment is received, and “the employers” means all such employers.

“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—

- (a) is employed by the Board or a small mine owner; or
- (b) is employed as a workmen’s inspector; or
- (c) is employed as an accident site observer; or
- (d) having previously been employed by the Board, or in transferred employment as defined in the Coal Industry Nationalisation (Superannuation) Regulations 1950(d), is employed as a checkweigher or pick-sharpener or in other employment of a similar nature and is remunerated wholly out of moneys provided by deductions from the wages of, or by contributions by, other persons.

“determining authority” means, in relation to any claim or question arising under the Act, the authority by whom that claim or question is to be determined under the Act.

(a) 11 & 12 Eliz. 2. c. 6.  
(c) 2 & 3 Eliz. 2 c. 70.

(b) 50 & 51 Vict. c. 58.  
(d) S.I. 1950/376 (1950 I, p. 356).

“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 determining authority to be an industrial accident as defined in section 48(5) of the Act.

“colliery disease” means, in relation to any colliery worker, any disease or personal injury prescribed under section 56 of the Act in relation to the employment of that colliery worker, which is determined as hereinafter provided to be due to the nature of his employment as a colliery worker and to have developed on or after 5th July 1948 but before 30th March 1970.

“The Workmen’s Compensation Scheme” means the Scheme established by the Board pursuant to a resolution dated 2nd July 1948, for providing benefits to persons in receipt of Workmen’s Compensation or of benefits under the Pneumoconiosis (Benefit) Scheme 1943(a), as the Scheme so established has been or may from time to time be amended or extended to other classes of persons.

“The Unions” means the National Union of Mineworkers, the National Association of Colliery Overmen, Deputies and Shotfirers and the British Association of Colliery Management.

“The Mineworkers’ Pension Scheme” means the pension scheme established by the Board, under powers conferred by the Coal Industry Nationalisation (Superannuation) Regulations 1950, and approved by the Minister of Power on 13th October 1951, as subsequently amended.

Subject as aforesaid, words and expressions used in the Act shall bear the same meanings in the Scheme where the context so admits and references to any enactment or to any regulation shall be construed as references to the same as amended by any subsequent enactment or regulation.

(2) The Interpretation Act 1889(b), shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

*Fund established for purposes of Scheme*

2. The Scheme shall supplement the rights conferred by the Act on colliery workers by providing additional payments in cases in which disablement benefit or a death benefit to a widow or to a woman having care of a deceased colliery worker’s child or children becomes payable under the Act in respect of a colliery accident or colliery disease and the moneys received by the National Committee in accordance with the Scheme and the investments for the time being representing the same shall constitute the Fund.

*Arrangements for maintaining Fund and review of Scheme*

3.—(1) The Board shall pay to the National Committee £125,000 in respect of each accounting period in the period commencing 29th March 1970 and ending on the day immediately preceding the first contribution date certified pursuant to paragraph (2) of this Article.

(2) The Actuary shall review the operation of the scheme after every five years or such shorter period as the Secretary of State or the National Committee may direct and after each such review make a report to the Secretary of State on the financial condition of the Fund and certify—

- (a) the annual sum which, in his opinion, is required to be paid by the Board to the National Committee over the period of such number of financial years of the Board not exceeding 20 as shall be determined by the Board to secure the supplementary benefits after the period covered by the review; and
- (b) the date, being the commencement of an accounting period, from which the number of such years determined as aforesaid is to run, such date to be known as the contribution date.

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(a) S.R. & O. 1943/886 (Rev. XXIV, p. 597; 1943 I, p. 1016).

(b) 52 & 53 Vict. c. 63.

The period to be covered by any such review shall commence immediately after the period covered by the preceding review.

(3) A copy of every report made and certificate given by the Actuary pursuant to this Article shall be sent to the National Committee and to each of the bodies having the right to make appointments to the National Committee.

(4) When, at any time after 29th March 1970, the Actuary certifies pursuant to paragraph (2) hereof the annual sum which in his opinion is required to be paid by the Board for the specified number of years, the Board shall, with effect from the contribution date specified in that certificate, pay to the National Committee a sum equal to one twelfth of the annual sum so certified in respect of each accounting period in the specified number of years or, if any further certificate shall be given pursuant to paragraph (2) hereof before the expiry of such number of years, in respect of each such accounting period falling before the contribution date specified in the next following further certificate so given.

(5) If any alterations shall be made in the rates of contributions or amount or periods of benefits under the Act or in the national minimum wage rates or if any report of the Actuary pursuant to this Article shall have disclosed a surplus or a deficiency in the Fund then in any such case the National Committee shall review the Scheme and shall recommend to the Secretary of State such amendments or variations thereof (if any) as the National Committee shall consider desirable.

*Benefits to be paid by Secretary of State*

4.—(1) Subject as hereinafter provided, the following supplementary benefits shall be paid by the Secretary of State out of moneys to be provided from the Fund:—

(a) to any person who has become entitled under the Act to a disablement pension in respect of a colliery accident or colliery disease, for any period for which he is in receipt of the pension, a supplementary disablement pension of one third of the amount of any sums paid to him by way of such disablement pension, which supplementary pension shall be increased for any period for which he is in receipt of such disablement pension in respect of an assessment of 100 per cent by an amount calculated at the weekly rate of 2s. 6d.:

Provided that—

- (i) a person shall be treated for the purposes of this sub-paragraph as if he were in receipt of such disablement pension in respect of an assessment of 100 per cent for any period—
    - (a) for which he is in receipt of such disablement pension in respect of an assessment which is treated under section 16 of the Act as an assessment of 100 per cent;
    - (b) for which he is in receipt of two or more such disablement pensions, if the sum total of the several assessments relating to those pensions amounts to not less than 100 per cent;
  - (ii) for any period during which the beneficiary is under the age of 18 and not for the time being entitled under the Act to an increase of benefit in respect of a child or adult dependant there shall be substituted for the reference to 2s. 6d. a reference, for a period during which he is between the ages of 17 and 18, to 1s. 10d. and, for a period during which he is under the age of 17, to 1s. 3d;
- (b) to any person who is awarded a disablement gratuity in respect of a colliery accident or colliery disease, a supplementary gratuity of one third of the amount of any sums paid to him by way of such disablement gratuity;
- (c) to the widow of a colliery worker who has become entitled under the Act to death benefit in respect of the death of that colliery worker as the result of a colliery accident or colliery disease, a supplementary widow's pension payable so long as she continues to receive a pension under section 19 of the Act at the following rates:—

- (i) for any period during which the widow has not attained the age of 40 years and does not satisfy the conditions of either section 19(3)(a) or section 19(3)(c) of the Act, at the weekly rate of 14s.;
- (ii) for any period after she has attained the age of 40 years or during which she satisfies either of the aforesaid conditions, at the weekly rate of 47s. 6d.:

Provided that where the widow was not residing with the deceased at his death the supplementary widow's pension shall be payable only if the aggregate weekly rate of the payments referred to in section 19(1) of the Act exceeds the weekly rate of the pension payable to her under section 19(2)(a) of the Act, in which event the weekly rate of the supplementary widow's pension shall be the amount of such excess or the rate payable under the foregoing provisions of this Article whichever is the less;

- (d) to a widow entitled under the provisions of sub-paragraph (c) of this paragraph to a supplementary widow's pension, if she remarries and becomes entitled under section 19(2)(b) of the Act to a gratuity payable on the termination of her pension in consequence of her remarriage, a supplementary gratuity of one third of the amount of any sums paid to her by way of such gratuity;
- (e) to a woman having the care of the child or children of a colliery worker who has become entitled under section 24 of the Act to death benefit in respect of the death of that colliery worker as a result of a colliery accident or colliery disease, a supplementary allowance at the weekly rate of 47s. 6d. payable so long as she continues to receive an allowance under section 24 of the Act.

(2)(a) When under the provisions of sections 29 or 30 of the Act any disablement pension to which a person is or would but for those provisions be entitled in respect of a colliery accident or colliery disease is extinguished or the rate thereof is reduced by reference to any other benefit payable to such person, he shall, subject as next hereinafter provided, be treated for the purposes of this Article as if he were in fact receiving such disablement pension at the rate at which it would be payable but for such extinguishment or reduction, and any supplementary benefit payable in respect thereof shall be calculated accordingly.

(b) Where a person suffers two or more colliery accidents and/or colliery diseases he shall not for the same period be entitled to receive supplementary benefit at an aggregate weekly rate exceeding the weekly rate of the supplementary disablement pension appropriate in his case to an assessment of disablement of 100 per cent.

(c) For the purpose of calculating the rate of supplementary disablement pension the expression "disablement pension" does not include any increase of disablement pension under sections 13, 14, 15, 17 and 18 of the Act, but includes any pension awarded in lieu of a disablement gratuity.

(3) For the purposes of calculating the rate of any supplementary benefit in accordance with this Article any reference in the foregoing paragraphs to the amount of any sums paid by way of a disablement pension or by way of a disablement or other gratuity shall be construed as referring to such amount as the beneficiary would have been entitled to or as would have been paid but for the coming into force or operation of the National Insurance Act 1967(a) and the National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations 1967(b) or any subsequent Act or Regulations increasing such amount.

#### *Benefits to be paid by Board*

5. If any person who is entitled to a supplementary disablement pension is at any time employed in insurable employment, then for so long as he continues to be so employed and for 26 weeks after he ceases to be so employed, any supplementary benefit to which that person is entitled shall, subject as hereinafter provided, be payable not by the Secretary of State but by the Board at a rate calculated in accordance with Article 4 hereof.

(a) 1967 c. 73.

(b) S.I. 1967/1223 (1967 II, p. 3565).

*Payment by one authority of benefits to be paid by the other*

6. Any supplementary benefit payable by the Secretary of State under Article 4 hereof may be paid by the Board and any supplementary benefit payable by the Board under Article 5 hereof may be paid by the Secretary of State; any supplementary benefit so paid shall except for the purposes of Articles 17 and 18 be deemed to have been paid by the Secretary of State or by the Board respectively.

*Limitation of supplementary benefit*

7.—(1) For any period in respect of which supplementary disablement pension is payable to a person under Article 4 or Article 5 hereof, the rate of such pension so payable to that person shall not exceed a rate equal to the amount by which that person's pre-accident earnings exceed the sum of his post-accident earnings, if any, and any of the following benefits to which he may be entitled, that is to say—

- (a) workmen's compensation;
- (b) any benefit, other than death benefit, under the Act;
- (c) any unemployment benefit, sickness benefit or retirement pension (other than a contributory old age pension) under the National Insurance Act 1965(a);
- (d) any benefit paid out of funds provided wholly or partly by the Board under the Workmen's Compensation Scheme or any other non-statutory scheme for the provision of benefits in respect of sickness or accident:

Provided that the provisions of this Article shall not apply in relation to any benefit of which he is not entitled to receive payment at a weekly rate, or in relation to any supplementary benefit payable to any person for any period during which he is in receipt of an increase of benefit in respect of constant attendance under section 15 of the Act or would, but for the proviso to sub-section (3) of that section, be in receipt thereof, or, in the case of any person whom the Board have certified or certify to have been, on 5th November 1958, and throughout the preceding 13 weeks, incapable of work, until such time as he returns to insurable employment.

(2) For the purposes of this Article

- (a) "workmen's compensation" means compensation under the Workmen's Compensation Acts 1925 to 1945, or under any Act repealed by the Workmen's Compensation Act 1925(b), or by the Workmen's Compensation Act 1906(c), or by virtue of any scheme made or certified under any of those Acts or payments made under or by virtue of the Workmen's Compensation (War Addition) Acts 1917 and 1919;
- (b) a payment made under or by virtue of the Industrial Injuries and Diseases (Old Cases) Act 1967(d) shall be treated as a payment by way of workmen's compensation.

*Adjustment of supplementary benefit in certain cases where a colliery worker is in receipt of a pension under another scheme*

8.—(1) Where, for any period, a colliery worker—

- (a) is not treated as having, and is not deemed to have, retired from regular employment for the purposes of the National Insurance Act, 1965; and
- (b) is entitled to receive supplementary disablement pension under the Scheme; and
- (c) is in receipt of an incapacity retirement pension under Rule 14(2)(a) or Rule 14(8) of the Mineworkers' Pension Scheme payable as the result of the colliery accident or colliery disease in respect of which he is entitled to receive the said supplementary disablement pension,

the weekly rate of such supplementary disablement pension payable in accordance with Articles 4, 5 and 7 shall be reduced or extinguished by deducting therefrom an amount equal to the weekly rate of the said incapacity retirement pension.

(a) 1965 c. 51.  
(c) 6 Edw. 7. c. 58.

(b) 15 & 16 Geo. 5. c. 84.  
(d) 1967 c. 34.

(2) Notwithstanding any other provisions of the Scheme a colliery worker shall not be entitled to supplementary disablement benefit under the Scheme in respect of any degree of disablement for any period in respect of which that degree of disablement has been taken into account in connection with the payment to him of a pension under Rule 14B of the Mineworkers' Pension Scheme or under any comparable provision of any other scheme established by the Board.

*Pre-accident and post-accident earnings*

9.—(1) Pre-accident earnings and post-accident earnings shall be ascertained as follows:—

- (a) “pre-accident earnings” means in relation to any person either
- (i) that person's average weekly earnings as a colliery worker during the relevant tax year in the grade in which he was employed at the date of the accident or of the development of the disease if he was so employed during that year and had earnings from that employment in not less than 13 weeks of that year, but otherwise the average weekly earnings which it is calculated he would have had if he had been so employed during the whole of that year having such regard as may be appropriate to the average weekly earnings of other colliery workers who were employed in the same grade by the same employer throughout the relevant tax year, or
  - (ii) if greater, the appropriate wage rate payable to an underground worker if that person was when so employed an underground worker, or the appropriate wage rate payable to a surface worker of that person's sex if that person was when so employed a surface worker;
- (b) “average weekly earnings” shall be assessed in accordance with the rules for determining average weekly earnings contained in section 10 of the Workmen's Compensation Act 1925 subject to the modification that for the reference in that section to ‘twelve months previous to the accident’ there shall be substituted a reference to ‘relevant tax year’ and may be reviewed from time to time in accordance with the rules of calculation contained in section 11 of the said Act and in section 6 of the Workmen's Compensation Act 1943(a):

Provided that no account is to be taken of—

- (i) any period falling within the relevant tax year during which the person was in receipt of injury benefit, unemployability supplement, sickness benefit or unemployment benefit; or
  - (ii) any period falling within the relevant tax year being a period not exceeding four months in duration, in respect of which the Board decide, on a claim made to that effect by the person or on his behalf, that the occupation in which he was employed during such period was not, and had not become, his normal occupation; or
  - (iii) any earnings during any period of which by virtue of the foregoing provisions of this proviso no account is to be taken;
- (c) “post-accident earnings” of any person shall be deemed to be, during any period of three months of insurable employment in respect of which that person is entitled to supplementary benefit, the average weekly remuneration received by such person during the preceding three months or, in the case of the first three months of such employment, during those three months, as certified by his employer or, in default of such certificate or if such certificate be not accepted by such person or by the Board, as may be determined by the National Committee.

(2) For the purpose of paragraph (1)(a) of this Article “the appropriate wage rate” means a rate equal to six times the lowest standard grade rate or, in the case of a person who at the date of the accident or of the development of the disease, as the case may be, was aged less than 18 years, a rate equal to six times the national standard rate for age for a juvenile worker of the same age as the age of that person at that date,

being in any case a rate for the time being determined by the National Conciliation Board in accordance with the provisions of the Coalmining Industry of Great Britain Conciliation Scheme of 5th December 1946.

(3) For the purpose of paragraph (1) of this Article 'the relevant tax year' means the last complete income tax year before the first Monday in May preceding the date of the accident or of the development of the disease.

(4) Where in accordance with the provisions of the succeeding paragraph of this Article a person is treated as having abandoned any occupation as the result of a colliery disease, in respect of which supplementary disablement pension is payable, before the date of the development thereof, the date of development shall be deemed for the purposes of this Article to be the date of such abandonment.

(5) For the purposes of the last preceding paragraph of this Article a person shall be treated as having abandoned an occupation as the result of a colliery disease only if he has established that he has abandoned that occupation as a result of that disease for the purposes of regulation 19 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959(a).

#### *Interim benefits*

10. Where any person is in receipt of benefit under the Act during a period intervening between an application for the determination of his claim to benefit under the Act or any question arising in connection with such claim or with an award and the final determination of the claim or question, then the supplementary benefits (if any) to which such person would be entitled on the basis of his being found entitled under the Act to the benefit of which he is so in receipt shall be payable to such person.

#### *Repayment of benefits*

11. Where pursuant to section 54 of the Act or any regulations made thereunder any person is required to repay the whole or any proportion of the benefit which he has received under the Act, then he shall also repay to the Trustees of the Fund the whole or a like proportion of the corresponding supplementary benefits received by him by reference thereto and any supplementary benefit so required to be repaid may if not so repaid be deducted from any supplementary benefit then or thereafter payable to that person.

#### *Claims for damages*

12.—(1) If any person in receipt of or entitled to supplementary benefits, other than a person in receipt of such benefits by virtue of the provisions of Article 4(1)(c) or 4(1)(e) hereof where the colliery worker in respect of whose death such benefit is payable had attained the age of 60 before the date of his death, shall make against the Board or against the employer in whose service the relevant accident or disease occurred or was contracted any claim either at common law or under the provisions of any statute for damages or compensation for the injuries or death caused by the relevant accident or disease and such person shall receive from the Board or from such employer any moneys either under a judgment or in respect of or by way of compromise of such claim the Board or such employer, as the case may be, shall forthwith notify the National Committee, the Secretary of State and the Board of the circumstances and of the amount of the moneys so received.

(2) If any person shall receive from the Board or the employer any moneys in the circumstances referred to in the preceding paragraph hereof, then—

(a) he shall pay to the Trustees of the Fund either—

(i) the amount of the supplementary benefits paid to him in respect of the relevant accident or disease during the period between the date of the accident or the development of the disease and the date of the receipt of such moneys or, if shorter, the period of four years immediately following the first of those dates; or

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(a) S.I. 1959/467 (1959 II, p. 1943).



- (ii) one half of the amount of the moneys received as aforesaid; whichever is the less;
  - (b) if one half of the amount of the moneys received as aforesaid exceeds the supplementary benefits paid during the period between the date of the accident or the development of the disease and the date of the receipt of such moneys, no supplementary benefits shall be payable after the date of the receipt of such moneys until the supplementary benefits withheld pursuant to this sub-paragraph together with the amount repayable under sub-paragraph (a) of this paragraph equal one half of the amount of the moneys so received or until the expiration of four years from the date of the accident or disease whichever first occurs; and after the expiration of such period of four years any supplementary benefits shall be payable in full except as may be required to effect any right of recovery under the next succeeding paragraph of this Article.
- (3) Without prejudice to any other method of recovery, if any amount payable under paragraph (2)(a) of this Article is not paid within two months of written notice demanding payment, such amount may be recovered by deduction from or the withholding of any supplementary benefits then or thereafter payable to any person in respect of that accident or disease.
- (4) For the purposes of Article 4(2)(b) hereof, supplementary benefits payable to any person from which deductions are made, or which are withheld, in pursuance of the last two preceding paragraphs shall be deemed to be received by him in full.
- (5) The National Committee shall from time to time give to the Board and the Secretary of State such information and instructions as may be necessary for giving effect to the preceding provisions of this Article, and the Board and the Secretary of State shall make or withhold payments of supplementary benefits in accordance with such instructions.
- (6) For the purposes of this Article moneys paid to the solicitor of an assisted person, pursuant to regulations made under the Legal Aid and Advice Act 1949(a), shall be deemed to have been received by that person.
- (7) In the application of paragraph (2) of this Article to a supplementary disablement gratuity, the gratuity shall be treated as if it were a supplementary disablement pension payable, during the period taken into account by the assessment on which the gratuity was based, at one third of the appropriate weekly rate as would have been set out in column 2 of the table contained in Schedule 4 of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(b), but for the coming into operation of the National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations 1967 or any subsequent regulations increasing that rate and the amount of such pension attributable to that part of the period so taken into account which falls within the period of four years from the date of the accident or disease—
- (i) if the gratuity had been paid before the receipt of the moneys referred to in the said paragraph (2), shall be repayable under and subject to the conditions of sub-paragraph (a) of the said paragraph (2);
  - (ii) if the gratuity had not been so paid, shall be withheld under and subject to the conditions of sub-paragraph (b) of that paragraph:

Provided that the amount to be repaid or withheld by virtue of this paragraph in respect of any gratuity shall not exceed the amount of the gratuity.

*Disqualifications, forfeitures and suspensions*

13. The provisions of sections 31 and 32(1) of the Act relating to disqualifications, forfeitures and suspensions and of any regulations made thereunder shall be applicable with the necessary modifications to supplementary benefits as the same apply to benefits under the Act but so that the supplementary benefit payable to any person in respect of any period by reference to any disablement pension or pensions payable to him by

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(a) 12, 13 & 14 Geo. 6. c. 51.

(b) S.I. 1964/504 (1964 I, p. 833).

virtue of regulation 31(2) of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964, shall not exceed £33 6s. 8d. or the total amount payable by way of supplementary disablement pension for a period of one year, whichever is the less.

*Benefits inalienable*

14. Subject to the provisions of the Scheme the provisions of section 28 of the Act (inalienability of benefits) shall be applicable with the necessary modifications to supplementary benefits as the same apply to benefits under the Act.

*Time and manner of payment of benefits by Secretary of State*

15. The provisions of section 27 of the Act and of any regulations made thereunder relating to time and manner of payment of benefits shall be applicable with the necessary modifications to payment by the Secretary of State of supplementary benefits as the same apply to benefits under the Act.

*Rules for payment of benefits by Board*

16. The Board shall with the approval of the National Committee make and publish rules as to the time and manner of payment of supplementary benefits payable under the Scheme by the Board and may from time to time with the like approval revoke, amend or vary such rules, and the time and manner of payment of supplementary benefits payable by the Board shall be regulated by the rules made under this Article and for the time being in force.

*Payment to Secretary of State*

17. The National Committee shall at such times and in such manner as the Secretary of State shall from time to time direct pay to the Secretary of State out of the Fund such amounts as the Secretary of State shall certify as being required to provide the moneys for payment of the supplementary benefits payable by the Secretary of State including any benefits paid or to be paid by the Secretary of State under Article 6, and also such amounts as the Secretary of State with the concurrence of the Treasury shall from time to time certify to be required to meet the costs of the Secretary of State's participation in the administration of the Scheme.

*Reimbursement of Board*

18. The National Committee shall at the end of each accounting period pay to the Board out of the Fund a sum equal to the amount which shall be certified by a duly authorised officer of the Board to have been expended by the Board during such period in the payment of supplementary benefits payable by the Board, including any benefits paid by the Board under Article 6, and the National Committee shall on 30th June and 31st December in each year pay to the Board out of the Fund such amount as shall be certified by a duly authorised officer of the Board to be required to meet the costs of the Board's participation in the administration of the Scheme during the preceding half-year on such basis as shall be agreed between the Board and the National Committee as fair and reasonable, or in default of agreement as may be determined by an accountant to be nominated by the President for the time being of the Institute of Chartered Accountants.

*Exchange of information*

19. The National Committee, the Board and the Secretary of State shall each supply to the other or others from time to time such information, accounts and documents as may be reasonably required for the purposes of or in connection with the Scheme. The National Committee and the Board shall supply to the Secretary of State from time to time such information, accounts and documents as he may reasonably require for the purposes of sections 46 and 47 of the National Insurance Act 1965 as applied by section 82 of the Act.

*Admission and rejection of claims under Act*

20. A claim for benefit under the Act by or in respect of a colliery worker shall constitute a claim for the corresponding supplementary benefit, if any, and the admission, rejection or review of such claim under the Act shall constitute the admission, rejection or review of the claim for such corresponding supplementary benefit, provided that if any question arises as to whether an accident or disease in respect of which such supplementary benefit is claimed constitutes a colliery accident or colliery disease, as the case may be, that question shall be decided as hereinafter provided.

*Determination of questions under Act*

21. The determination under the provisions of the Act of any question or dispute which may arise in connection with any claim to benefit under the Act and in particular, but without prejudice to the foregoing, of any question whether an accident is an industrial accident or whether a disease is prescribed in relation to any person and if so whether it is due to the nature of insurable employment, shall be conclusive for the purposes of the Scheme to the same extent as it is conclusive for the purposes of the Act.

*Determination of questions under Scheme*

22.—(1) Subject to the provisions of Articles 20 and 21 hereof, every question or dispute which may arise in connection with any claim to supplementary benefit whether as regards the administration of the Scheme or the interpretation or construction of any provision thereof (other than a question relating to the administration of the Scheme by the Secretary of State or the payment by him of supplementary benefits) shall be referred to and determined by the National Committee whose decision thereon shall be final.

(2) Subject as aforesaid and without prejudice to the generality of paragraph (1) of this Article, every question whether the employment out of and in the course of which an accident arose or to the nature of which a disease was due was employment as a colliery worker shall be determined in accordance with the provisions of paragraph (1) of this Article.

*References by employers and Unions*

23. Subject to the provisions of Articles 20 and 21 hereof, the employers or the Unions or any of them may at any time (whether or not in connection with any claim to supplementary benefits made or contemplated) refer any question or dispute as regards the administration of the Scheme or the interpretation or construction of any provision thereof (other than a question relating to the administration of the Scheme by the Secretary of State or the payment by him of supplementary benefits) to the National Committee which shall determine any question or dispute referred to it hereunder and its decision shall be final.

*Right of audience of employers and Unions*

24. The Board, the Federation of Small Mines of Great Britain and the Unions shall be given notice of and shall be entitled to be heard on every reference to the National Committee and the decision on the reference shall be published and shall be binding on them and on all other parties (if any) to the question in dispute.

*Rules of procedure*

25. The National Committee may, subject to the approval of the Secretary of State, make and from time to time revoke or vary rules governing its procedure in the conduct of references to it under the foregoing provisions in that behalf and as to the evidence upon which it may act in determining questions and disputes submitted to it. Whenever for the due determination of any such question or dispute any document or information shall be required which it is within the power of any employer or other person party to the reference or claiming under or bound by the Scheme to produce or furnish, then such employer or other person shall be bound to produce or furnish the same to the

National Committee upon being called upon by it so to do. The provisions of section 93(1)(c) of the National Insurance Act 1965 as applied by section 68 of the Act as to offences and penalties shall be applicable as if references therein to benefit or other payment under the Act were references to supplementary benefit or other payment under the Scheme and the reference to any purpose connected with the Act were a reference to any purpose connected with the Scheme and any offence committed under the said paragraph as made applicable by this Article shall be deemed to be an offence under the Act, so however that where anything is done for the purposes of the Act it shall not be deemed also to have been done for the purposes of the Scheme by reason only of the fact that if a claim were established to benefit under the Act any person would also be entitled to supplementary benefit under the Scheme.

*Rules for administration*

26. The National Committee may, subject to the approval of the Secretary of State make, and from time to time revoke or vary, rules for the general administration of the Scheme by the National Committee not being inconsistent with the provisions of the Scheme.

*Constitution of National Committee*

27. The National Committee shall consist of ten members of whom five shall be employers' representatives and five shall be colliery workers' representatives. Of the employers' representatives four shall be appointed and may be removed by the Board and one shall be appointed and may be removed by the Federation of Small Mines of Great Britain. Of the colliery workers' representatives four shall be appointed and may be removed by the National Union of Mineworkers and one shall be appointed and may be removed by the Secretary of State, the person appointed by the Secretary of State to be some person whom he shall, after consultation with such body or bodies representing colliery workers who are not members of the National Union of Mineworkers as appear to him to be appropriate to be consulted, consider suitable to represent such colliery workers. The Secretary of State and each body entitled to appoint members of the National Committee may in respect of each person appointed by him or it appoint and remove a person to be an alternate member of the National Committee, and such alternate member shall in the absence of such member be entitled to attend and vote at all meetings of the National 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.

*Appointment and removal of members of National Committee*

28. The appointment and removal of any member of the National Committee and of any alternate member thereof shall be effected by an instrument in writing signed as the case may be by or on behalf of the Secretary of State or the body making the appointment or effecting the removal, delivered at the principal office of the Board and to the National Committee. Whenever a vacancy occurs on the National Committee it shall be filled by a new appointment by the Board, the Federation of Small Mines of Great Britain, the National Union of Mineworkers or the Secretary of State as the case may be.

*Terms of appointment*

29. Any appointment of a member or alternate member of the National Committee may be expressed to be for some 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 National Committee.

*Determination of appointment*

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

*Chairman of National Committee*

31. The Board shall appoint the Chairman of the National Committee 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.

*National Committee proceedings*

32. The National Committee may meet together for the dispatch of business, adjourn and otherwise regulate its proceedings as it thinks fit. The Chairman of the Committee shall take the chair at every meeting at which he is present but if he be not present the members of the Committee present at the meeting shall choose one of their number from those appointed by the Board to be chairman of the meeting. The continuing members of the Committee may act notwithstanding any vacancy in its 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 shall be four of whom two must be employers' representatives and two must be colliery workers' representatives.

*National Committee: determination of questions*

33. Questions arising at any meeting of the National Committee shall be determined by a majority of votes. In the case of an equality of voting the chairman of the meeting shall not have a second or casting vote.

*Joint Secretaries*

34. There shall be two Joint Secretaries of the National Committee of whom one shall be appointed and may be removed by the employers' representatives and the other shall be appointed and may be removed by the colliery workers' representatives. If there shall for the time being be a vacancy in the office of Joint Secretary the surviving or continuing Joint Secretary shall have full power to act as Secretary of the National Committee and the National Committee may at any time and from time to time nominate any person to perform any of the duties of the Joint Secretaries of the National Committee in any case in which it is impracticable or inconvenient for the Joint Secretaries or surviving or continuing Joint Secretary to act. The National Committee may from time to time appoint such other officers and servants as may be requisite for its administration of the Scheme at such remuneration and upon such conditions as the National Committee shall deem proper. The remuneration of the Joint Secretaries shall also be such as the National Committee shall from time to time determine.

*Sub-committees*

35. The National Committee shall have power to appoint and to delegate all or any of its powers (other than its powers to make rules) to sub-committees consisting of one or more persons being members of its own body or officers or servants thereof as the National Committee shall think fit and may make any rules for the conduct of the proceedings of any such sub-committee, and if any such sub-committee shall be appointed to deal with or inquire into any matter mainly or exclusively concerning the small mine owners, at least one such person nominated by the Federation of Small Mines of Great Britain shall be appointed to be a member of such sub-committee. The meetings 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 National Committee so far as the same may be applicable and are not superseded by any rules made under this Article by the National Committee.

*Administration by National Committee*

36. Save in respect of those matters the administration of which is vested in the Secretary of State hereunder, the management and administration of the Scheme shall be vested in the National Committee and the costs of such management and administration shall, subject to the approval of the Secretary of State, in relation to such matters as he may direct, be borne by and paid out of the Fund.

*Powers of investment*

37. Any moneys forming part of the Fund and not for the time being required for payments to be made thereout may at the discretion of the National Committee be invested in authorised securities and the National Committee may retain any such security notwithstanding that it has ceased to be an authorised security.

*Appointment of Nominee or Custodian Trustee*

38. The National Committee shall have power to appoint a Nominee or a Custodian Trustee approved by the Secretary of State to hold on behalf of the National Committee investments of the Fund.

*Appointment of Trustees*

39. Save in so far as any moneys, investments or other property are for the time being vested in any such Nominee or Custodian Trustee, the same shall be vested in the members of the National Committee (or in such two or more members as the National Committee shall from time to time determine) as trustees. The members of the National Committee as such trustees as aforesaid may act by a majority and, save that the quorum for meetings of the members as such trustees shall be two, all the provisions of the Scheme relating to proceedings of the National Committee shall apply to the proceedings of members of the National Committee in their capacity as such trustees.

*Investments*

40.—(1) The following are authorised securities for the purposes of the Scheme:—

- (a) Deposits with any bank, banking or discount company or with a building society as defined in section 1(4) of the Building Societies' Act 1962(a).
- (b) Immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands or any share or interest in such property, including any interest in such property comprised in a building agreement providing for the grant of a lease of such property contingently on the erection of the building specified in such agreement.
- (c) Policies of Insurance.
- (d) Loans upon the security of—
  - (i) any such immovable property or interest in immovable property as is mentioned in sub-paragraph (b) hereof,
  - (ii) any such policies or securities as are mentioned in sub-paragraph (c), (g), (h) or (i) hereof,
  - (iii) any such shares or investments as are mentioned in sub-paragraph (j) or (k) hereof, or
  - (iv) the rates, revenues, funds, property or profits of or leviable by, or belonging to, any such authority as is mentioned in sub-paragraph (h)(iii) hereof.
- (e) Loans to the Board.
- (f) Unsecured loans to property companies.
- (g) Debentures of any company incorporated with limited liability in the United Kingdom and comparable obligations of any body corporate incorporated under the law of any other country or territory.
- (h) Securities issued by—
  - (i) the government of any country or territory,
  - (ii) any public authority or body corporate operating a canal, dock, electricity, gas, harbour, railway, shipping, tramway, transport or water undertaking under statutory or other powers conferred by the law of any country or territory, or

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(a) 10 & 11 Eliz. 2. c. 37.

- (iii) any authority to which paragraph 9 of part II of the First Schedule to the Trustee Investments Act 1961(a) applies or any comparable authority outside the United Kingdom.
  - (i) Securities the capital of which or a minimum rate of interest or dividend on which is guaranteed by the government of any country or territory.
  - (j) Shares of any company incorporated with limited liability in the United Kingdom.
  - (k) Investments outside the United Kingdom which are—
    - (i) investments of the kind specified, in relation to the United Kingdom, in sub-paragraph (j) hereof, or
    - (ii) units, or any other shares in the investments subject to the trust, of a unit or similar trust scheme.
  - (l) Investments, other than investments of the kinds specified in sub-paragraphs (a) to (k) hereof, in which trustees are for the time being authorised to invest property in their hands.
- (2) No money shall be invested—
- (a) in restricted investments at any time when the total value of all restricted investments held by the Scheme equals or exceeds 75 per cent of the total value of the assets of the Scheme;
  - (b) in restricted investments which are the shares of any company which was incorporated or commenced trading within the previous two years at any time when the total value of all restricted investments held by the Scheme which are the shares of such companies equals or exceeds 33 $\frac{1}{3}$  per cent of the total value of all restricted investments held by the Scheme; or
  - (c) in restricted investments of the kind specified in sub-paragraphs (j) or (k) of paragraph (1) hereof (other than shares of such property companies), which are not quoted, or permitted to be dealt in, on the London Stock Exchange at any time when the total value of all restricted investments of such kinds (other than shares of property companies) which are not so quoted or permitted to be dealt in held by the Scheme equals or exceeds 10 per cent of the total value of all restricted investments held by the Scheme.
- (3) For the purposes of paragraph (2) of this Article value shall be taken at cost and a certificate of the Auditors as to the total value of the assets of the Scheme or of any class of investment specified in the said paragraph shall be conclusive.
- (4) The National Committee at its discretion may at any time vary any investments held including any immovable property or any share or interest therein whensoever acquired.
- (5) As to all such immovable property (whether purchased alone or jointly or in common with any other person or corporation) the National Committee shall have and may exercise or join in exercising all the powers of management or superintending the management thereof referred to in Section 102 of the Settled Land Act 1925(b), and also generally all the powers conferred upon a tenant for life or the trustees of a settlement under the said Act and by way of extension of such powers, power to carry out with moneys forming part of the Fund any improvements of any kind to land or buildings (whether referred to in the said Act or not and including the erection, demolition and reconstruction of any buildings) and may grant, or join in granting, leases of any kind for any term not exceeding 999 years and on such terms or conditions as may be thought desirable and may grant or join in granting options.
- (6) Where any such immovable property is purchased jointly or in common with any other person or corporation the National Committee may if it thinks fit arrange—

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(a) 9 & 10 Eliz. 2. c. 62.

(b) 15 Geo. 5. c. 18.

- (a) for the vesting of the property in a trustee (whether or not being the Nominee or Custodian Trustee appointed under Article 38 or such other person or corporation beneficially interested in the property) for the National Committee and such other person or corporation;
- (b) for conferring on such trustee all or any of the powers of management and extended powers referred to in paragraph 5 of this Article in relation to the property or for delegating to such trustee the exercise of all or any of such powers; and
- (c) for the trusts to be kept off the title and such trustee to hold the property as if absolute owner thereof and to carry out transactions as to the property as if such an owner.

(7) The National Committee shall have power where any such immovable property or any share or interest therein is held on behalf of the National Committee by a Nominee or a Custodian Trustee appointed under Article 38 to direct such Nominee or Trustee to carry into effect any decision of the National Committee within its powers and if the National Committee thinks fit it may arrange for the trusts to be kept off the title and the Nominee or Custodian Trustee to hold the property as if absolute owner thereof and to carry out transactions as to the property as if such an owner.

(8) The National Committee shall have power to enter into bonds for the due performance of obligations undertaken by itself or its nominees in connection with the exercise of any of its powers under this Article or to indemnify any other person entering with the consent of the National Committee into any bond for the due performance of such obligations.

(9) The power of the National Committee to invest in immovable property or any interest in such property shall include power so to invest whether alone or jointly or in common with any other person or corporation, and its power to invest in loans upon the security of any such property or interest shall include power so to invest whether the security be taken by a separate and distinct mortgage or security made exclusively to or in trust for the National Committee or by a mortgage or security made to or in trust for it jointly with any other person or corporation who may contribute to the total amount lent on such mortgage or security and although the National Committee may not obtain the whole or any portion of the estate or interest in such immovable property therein comprised.

(10) In this Article—

- (a) “debentures” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;
- (b) “property company” means a company incorporated in the United Kingdom which has the acquisition and development of immovable property as a main object and is approved for the purpose of this Article by the Board;
- (c) “restricted investments” means investments which are authorised investments by virtue of sub-paragraphs (d)(iii), (f), (j) or (k) of paragraph (1) of this Article but not by virtue of any other sub-paragraph;
- (d) “securities” includes shares and debentures, Treasury Bills and Exchequer Bills issued by the government of the United Kingdom, and any similar Bills issued by the government of any other country or territory;
- (e) “shares” includes stock;
- (f) “territory” includes
  - (i) any state or province of any territory specified for the time being in section 1(3) of the British Nationality Act 1948(a);
  - (ii) any colony;
  - (iii) the Isle of Man and the Channel Islands; and



- (iv) any protectorate, protected state or trust territory within the meaning of the said Act; and
- (g) references in sub-paragraph (b) and (c) of paragraph (2) of this Article to shares and investments of particular kinds or classes include references to loans upon the security of shares and investments of these kinds or classes.

*Power to borrow*

41. If and to the extent that at any time the National Committee shall consider it inadvisable to realise any investments forming part of the Fund it may borrow money on the security of any assets of the Fund for the purpose of making any payments which ought to be made out of the Fund.

*Accounts*

42. The National Committee shall cause to be kept full and true accounts of the Fund and of all sums of moneys received and payments made by the National Committee and by all persons employed by or under the National Committee and shall cause to be kept full and correct records of all matters proper to be recorded. The accounts and records of the National Committee shall be at all times open to the inspection of the members of the National Committee and the Secretary of State.

*Annual statement*

43. The National Committee shall not later than 31st May in every year have prepared a statement of accounts including a balance sheet made up to the last day of the preceding December, which shall have attached a report of the National Committee on the working of the Scheme, and shall also have attached a report by the Auditors stating whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit, whether in their opinion proper books of accounts have been kept by the National Committee so far as appears from an examination of those books, and whether the accounts to which the report is attached, in their opinion and to the best of their information and according to the explanations given to them, give a true and fair view of the affairs of the Scheme and state of the Fund at the date of such accounts.

*Auditors' access to books*

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

*Delivery of annual statement*

45. A copy of every annual statement of accounts and of the National Committee's and Auditors' reports thereto attached shall, within 42 days of the date on which the same is completed, be delivered to the Secretary of State and to each of the bodies having the right hereunder to make appointments to the National Committee.

*Termination of Scheme*

46. Either of them the Board and the National Union of Mineworkers may at any time give not less than 12 months' notice to the Secretary of State and to the other of them that it intends to withdraw from the Scheme, and upon the expiration of such notice, or of such extended period as the party giving the notice may consent to allow, the Scheme shall be terminated except so far as may be necessary for the purposes of Article 47 hereof, unless in the meantime the notice shall be withdrawn.

*Winding up*

47.—(1) If the Scheme shall be terminated, the National Committee shall make provision in such manner as, acting on the advice of the Actuary and with the approval of the Secretary of State, it may think fit—

- (a) for the protection of any rights to supplementary benefits in respect of employment as a colliery worker before the date of such termination;
- (b) in the event of there being any balance of the Fund after making such provisions as aforesaid, for repaying to the Board the amounts (if any) which they may have paid to the Fund for the purpose of securing its solvency under the provision in that behalf hereinbefore contained;
- (c) for the winding up of the Fund and for the disposal of any ultimate balance in such manner as the Secretary of State after consultation with the National Committee shall direct.

(2) In the event of the Fund being insufficient for the purposes specified in subparagraph (a) of the preceding paragraph, then the Board shall pay to the Fund during the following period of such length not exceeding 20 years as shall be determined by the Board such periodical sum by way of addition to the Fund as shall be certified by the Actuary as in his opinion required to secure that the said purposes shall be fulfilled.

## SCHEDULE 2

## Article 25

## ORDERS REVOKED

Citation	Statutory Instrument
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment and Consolidation Order 1963	S.I. 1963/934 (1963 II, p. 1559).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order 1965	S.I. 1965/535 (1965 I, p. 1543).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order 1966	S.I. 1966/1011 (1966 II, p. 2412).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order 1967	S.I. 1967/1550 (1967 III, p. 4313).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order 1968	S.I. 1968/83 (1968 I, p. 266).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment (No. 2) Order 1968	S.I. 1968/1896 (1968 III, p. 5039).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order 1969	S.I. 1969/716 (1969 II, p. 1947).
The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment (No. 2) Order 1969	S.I. 1969/1646 (1969 III, p. 5188).

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order varies and amends the provisions of the National Insurance (Industrial Injuries) Colliery Workers Supplementary Scheme so that it is not to apply to any colliery accident sustained or colliery disease developing on or after 30th March 1970. Supplementary injury benefit is no longer to be paid under the Scheme and the rates of those supplementary benefits calculated by reference to benefits payable under the National Insurance (Industrial Injuries) Act 1965 are to continue to be unaffected by any increases in such benefits payable under the said Act under or by virtue of the National Insurance Act 1967 or any subsequent legislation. Contributions to the Fund of the Scheme by the National Coal Board, other employers and colliery workers cease to be payable but the Board will pay to the Fund such amounts as are required to secure the continuing entitlement of beneficiaries.

The Order also makes provision for extinguishing title to supplementary benefit in certain cases where benefit is payable under other schemes in the Industry which the Board and the Unions have agreed should provide some corresponding benefits in future cases. Local Committees are to cease to form part of the administration of the Scheme ; their functions being transferred to the National Committee. The powers of the National Committee with regard to investing the moneys of the Fund are revised. Other amendments are of a minor or consequential character.

The Order also replaces the existing provisions of the Scheme with provisions consolidating the existing provisions as they are to have effect with the amendments made by the Order.

All previous Orders relating to the Scheme are revoked.

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