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**1987 No. 1226**

**COAL INDUSTRY**

**The Mineworkers' Pension Scheme Order 1987**

<i>Made - - - -</i>	<i>15th July 1987</i>
<i>Laid before Parliament</i>	<i>16th July 1987</i>
<i>Coming into force</i>	<i>28th August 1987</i>

Whereas the Secretary of State has received representations from the British Coal Corporation ("the Corporation") pursuant to section 7(1) of the Coal Industry Act 1987(a) ("the Act") and has consulted pursuant to section 7(2) of the Act with the Corporation and such organisations as appear to him to represent a substantial proportion of the members of the Scheme established under section 37 of the Coal Industry Nationalisation Act 1946(b) which is known as the Mineworkers' Pension Scheme ("the Scheme");

And whereas it appears to the Secretary of State that the Scheme does not provide for participation in functions conferred under it by an organisation which appears to him to represent a substantial proportion of the members of the Scheme;

Now, therefore, the Secretary of State in exercise of his powers under section 7(1) and (6) of the Act hereby makes the following Order:

1. This Order may be cited as the Mineworkers' Pension Scheme Order 1987 and shall come into force on 28th August 1987.
2. The Scheme shall have effect with the amendments specified in the Schedule to this Order.

15th July 1987

*Cecil Parkinson*  
Secretary of State for Energy

## SCHEDULE

## AMENDMENTS TO THE MINEWORKERS' PENSION SCHEME

## 1. Clause 16

For the words "the Union" shall be substituted the words "each Appointing Union".

## 2. Clause 17

In paragraph (3) for the words "the Union" shall be substituted the words "each Appointing Union".

## 3. Clause 18

For the words "the Union" shall be substituted the words "each Appointing Union".

## 4. Clause 21

The following Clause shall be substituted—

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

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

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

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

<i>Percentage of aggregate number of Relevant Members</i>	<i>Number of members of the Committee of Management</i>
10% or more but less than 30%	1
30% or more but not more than 50%	2
More than 50% but not more than 70%	3
More than 70% but not more than 90%	4
More than 90%	5

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

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

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

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

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

- (a) satisfy themselves that the Corporation's Records at the Relevant Time correctly recorded the union membership, if any, of such person in accordance with his latest instructions to his Employer, or failing that
- (b) satisfy themselves that such person was a contributing member of the Eligible Union at the Relevant Time or, failing that
- (c) endeavour to obtain from such person his written confirmation as to the Eligible Union, if any, of which he intended his Employer to treat him as being a contributing member at the Relevant Time and until they receive such confirmation shall not count that person as a member of the Eligible Union in question.

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

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

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

(12) In any year when a notification would not normally be given by the Corporation pursuant to paragraph (5) of this Clause an Eligible Union may give notice to the Corporation

by not later than 30th September in that year that it requires the Corporation to give a notification pursuant to paragraph (5) of this Clause in that year. In that event the Corporation shall by not later than 31st December in that year give notification to each Eligible Union pursuant to paragraph (5) of this Clause and the provisions of paragraphs (5) to (11) of this Clause shall apply, *mutatis mutandis*.

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

5. Clause 22

For each reference to “the Union” shall be substituted the words “an Appointing Union”.

6. Clause 23

At the beginning shall be inserted the words “Subject to the provisions of paragraphs (1) to (3) of Clause 21”.

7. Clause 26

For the words “the Union” shall be substituted the words “the Appointing Unions acting jointly”.

8. Clause 27

For the last sentence shall be substituted—

“The quorum necessary for the transaction of the business of the Committee of Management shall be one half of the total number of members thereof of whom one must be the Chairman or the Joint Deputy Chairman appointed by the Corporation.”.

9. Clause 28

At the beginning shall be inserted the words “Subject to the provisions of sub-paragraph (a) of paragraph (2) of Clause 37”.

10. Clause 30

For the first two sentences shall be substituted the following—

“There shall be joint Secretaries to act as secretaries of both the Committee of Management and the Rules Amendment Committee. The Corporation and each Appointing Union shall have the power to appoint and remove one such joint Secretary. If an Eligible Union ceases to be an Appointing Union the joint Secretary appointed by it shall immediately cease to hold office. If there shall for the time being be a vacancy in the office of the joint Secretaries the surviving or continuing joint Secretary or joint Secretaries shall have full power to act and the Committee of Management may at any time and from time to time nominate any person to perform any of the duties of the joint Secretaries of the Committee of Management and the Rules Amendment Committee in any case in which it is impracticable or inconvenient for the joint Secretaries or the surviving or continuing joint Secretary or joint Secretaries to act.”.

11. Clause 33

For the words “of the Union” shall be substituted the words “of one or both of the Eligible Unions”.

12. Clause 37

The following Clause shall be substituted—

“37.—(1) Subject to the provisions of paragraph (2) of this Clause, the Corporation may from time to time and at any time (and in particular, but without prejudice to the generality hereof, if any report of the Actuary shall have disclosed a surplus or a deficiency in the Scheme) amend the Scheme or the Rules by the alteration, deletion or addition of any provisions, but no alteration, deletion or addition shall be made which would have the effect of—

- (a) altering the main purpose of the Scheme from that of providing pensions for members on retirement;
  - (b) making any of the moneys of the Scheme payable to the Corporation or to any other Employer;
  - (c) reducing the amounts of any benefits already earned or accrued.
- (2) No amendment shall be made to the Scheme or Rules unless such amendments shall have been proposed by the Corporation and approved—
- (a) in the case of an amendment to Clause 21, this Clause or Clause 38 by a resolution of the Rules Amendment Committee passed unanimously at a meeting of that Committee attended by all its members or their alternates; and
  - (b) in any other case, by resolution passed by the votes of a majority of the members for the time being of the Rules Amendment Committee or their alternates.”.

### 13. Clause 38

The following Clause shall be substituted—

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

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

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

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

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

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

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

### 14. Clause 39

After the words “the Committee of Management” shall be inserted the words “, the Rules Amendment Committee”.

### 15. Clause 41

(1) After the definition of “the Ancillary Workers Scheme” the following definitions shall be inserted—

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

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

(2) In the definition of “Branch Secretary” for the words “the Union” shall be substituted the words “the Eligible Unions”.

(3) After the definition of “Contributions Equivalent Premium” the following definitions shall be inserted—

‘ “the Corporation” means the British Coal Corporation.’;

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

(4) After the definition of “Eligible Employment” the following definition shall be inserted—

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

(5) After the definition of “Relative” the following definitions shall be inserted—

‘ “Relevant Members” means contributing members of an Eligible Union who are in Eligible Employment and are members of the Scheme.’;

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

(6) After the definition of “the Rules” the following definition shall be inserted—

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

(7) In the definition of “the Secretary” there shall be inserted—

(i) after the words “or continuing joint Secretary” the words “or joint Secretaries”, and

(ii) after the words “the Committee of Management” where they first occur the words “and the Rules Amendment Committee”.

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## EXPLANATORY NOTE

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

This Order amends the Mineworkers’ Pension Scheme established by the British Coal Corporation under section 37 of the Coal Industry Nationalisation Act 1946 to provide for the Union of Democratic Mineworkers to participate in the administration of the Scheme in addition to the National Union of Mineworkers.

Under the amendments to the Scheme, which are contained in *the Schedule* to the Order, each union is to be entitled to appoint members of the Committee of Management according to the proportion of contributing members of the Scheme which it represents (*paragraph 4*) and consequential and other amendments are made to the provisions regulating the proceedings of the Committee.

Similar rights are conferred with respect to the Rules Amendment Committee established to approve amendments to the Scheme (*paragraphs 12 and 13*). The represented unions are together to appoint a Joint Deputy Chairman and may each appoint a Joint Secretary of the two Committees (*paragraphs 7, 10 and 13*).