
STATUTORY INSTRUMENTS

1994 No. 2576

COAL INDUSTRY

**The British Coal Staff Superannuation
Scheme (Modification) Regulations 1994**

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

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

Citation and Commencement

1. These Regulations may be cited as the British Coal Staff Superannuation Scheme (Modification) Regulations 1994 and shall come into force on 31st October 1994.

Interpretation

2. In these Regulations

“the 1946 Act” means the Coal Industry Nationalisation Act 1946⁽²⁾;

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

“the Scheme” means the British Coal Staff Superannuation Scheme which was established under the Coal Industry Nationalisation (Superannuation) Regulations 1946⁽³⁾ made under section 37 of the 1946 Act on 1 January 1947 by a resolution of 31 December 1946 of the National Coal Board and which was amended and continued to have effect by a resolution of 18 July 1947 of that Board and was further amended by subsequent resolutions of that Board the name of which was changed to the British Coal Corporation by section 1(1) of the Coal Industry Act 1987⁽⁴⁾.

(1) 1994 c. 21.

(2) 1946 c. 59.

(3) S.R. & O. 1946/2198.

(4) 1987 c. 3.

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Continuance in Force of the Scheme

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

Modification of the Scheme

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

4th October 1994

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

THE SCHEDULE

Regulation 4

THE SCHEME AS MODIFIED
BRITISH COAL STAFF SUPERANNUATION SCHEME

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THE BRITISH COAL STAFF SUPERANNUATION SCHEME

SCOPE OF SCHEME

Establishment of Scheme

1. The Scheme shall be deemed to have been established on 1 January 1947 by the National Coal Board by the resolution numbered 1 in Appendix IV to the Rules scheduled hereto and shall be deemed to have been governed by the terms of the Scheme and Rules scheduled to the resolution numbered 2 in Appendix IV (“the Original Scheme”) as amended from time to time by the resolutions and other instruments listed in Appendix IV. The provisions of the Scheme (other than Clause 48 and the Rules) as set out in these presents shall constitute the Scheme with effect from the 1994 Amendment Date. The provisions of the Rules (and Clause 48) as set out in these presents shall apply in respect of all Contributors as at the 1994 Amendment Date and the entitlement of persons ceasing to be Contributors prior to the 1994 Amendment Date shall be determined by those provisions of the rules comprised in the Original Scheme as amended by those of the instruments listed in Appendix IV as were in force on or subsequently made and put into force so as to be effective on the date each such person ceased to be a Contributor.

Trusteeship, Scheme Fund and Management and Administration

1A. With effect from the Appointment Date:—

(1) The moneys, investments and other property of the Scheme shall constitute the Scheme Fund, and British Coal Staff Superannuation Scheme Trustees Limited, hereinafter called “the Trustee”, shall be sole trustee of the Scheme and the Scheme Fund;

(2) Save insofar as the Scheme Fund or any part of it is for the time being vested in any nominee or custodian trustee appointed under Clause 9(3) or in any trustee appointed under Clause 11(1), the Scheme Fund shall be vested in the Trustee;

(3) Save in respect of the collection of contributions (the administration whereof is vested in the Principal Employer) the management and administration of the Scheme, in accordance with the provisions thereof, shall be vested in the Trustee;

(a) (4) All powers expressed by the Scheme, in whatever terms, to be vested in, conferred on or exercisable or to be exercised by the Committee shall be vested in the Trustee;

(b) Such powers and all other powers vested in, conferred on or exercisable or to be exercised by the Trustee under or by virtue of the Scheme shall be exercised by it and on its behalf by and through the Committee in their capacity as Committee of Management of the Trustee within the meaning of the Articles of Association of the

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Trustee (hereinafter called “the Articles”) or any other person or body of persons required, authorised or empowered to exercise such powers or any of them by or under any provision of the Scheme and by or under the Articles; and

- (c) Save in relation to Clause 46 and the meanings assigned to “the Committee” and “the Former Committee” by Clause 48(i), any reference in the Scheme, in whatever terms, to the Committee shall be construed as a reference to the Trustee acting by and through the Committee in the capacity specified in sub-paragraph (b) of this paragraph or any other person or body of persons required, authorised or empowered to act for it or on its behalf for that purpose by or under any provision of the Scheme and by or under the Articles

Provided that except insofar as is otherwise expressly provided therein, neither the Articles, any amendment to the Scheme taking effect from the Appointment Date, any such Deed as is referred to in the meanings assigned to “the Appointment Date” by Clause 48(i) nor any act or thing done in consequence or pursuance of or in connection with the Articles or any such amendment or deed shall affect the validity, operation or effect of anything done or omitted to be done before the Appointment Date by, for or on behalf of the Former Committee, any sub-committee of the Former Committee, or the Secretary (within the meaning of the Scheme as it had effect from time to time before that date).

1B.—(1) In the event of British Coal Staff Superannuation Scheme Trustees Limited ceasing for any reason to be the Trustee of the Scheme before the Guarantee Date, the Principal Employer shall forthwith procure that a new trustee or trustees of the Scheme are appointed comprising either:—

- (i) a new corporate trustee whose Articles of Association would be in a form corresponding as closely as may be possible to those of British Coal Staff Superannuation Scheme Trustees Limited and would provide for the appointment of a committee of management consisting of eight persons, of whom four would be appointed by and would be subject to removal by the Principal Employer, and four would be appointed by and would be subject to removal in accordance with rules to be agreed between the Principal Employer and such organisations as at that time represent substantial proportions of the classes of the Principal Employer’s employees who are Members of the Scheme Provided that
 - (i) the four persons appointed by such organisations shall be persons who are or immediately before retirement were Contributors; and
 - (ii) in the event that it is not possible to agree such rules or there is a dispute as to which organisations represent substantial proportions of the classes of the Principal Employer’s employees who are Members of the Scheme the matter shall be referred to a single Arbitrator to be named by the President for the time being of the Law Society. The Arbitrator so named shall have all the powers conferred on Arbitrators by the Arbitration Acts 1950 and 1979; or
- (ii) eight individual trustees subject to appointment and removal as aforesaid.

(2) The Principal Employer (*before the Guarantee Date*) shall appoint the Chairman and Deputy Chairman of any such committee of management or of the trustees and the chairman of any meeting of the committee of management or of the trustees shall have, in the case of an equality of votes, a second or casting vote.

(3) The Principal Employer (*before the Guarantee Date*) shall, in connection with the aforesaid appointments, make such amendments to the Scheme and Rules as may be necessary to give effect to the provisions of paragraphs (1) and (2) of this Clause.

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

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

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

- (i) *a new corporate trustee whose Articles of Association would be in a form corresponding as closely as possible to those of Coal Staff Superannuation Scheme Trustees Limited at the time it ceases to be a trustee and would provide for the appointment of a committee of management consisting of eight persons, of whom four would be appointed by and would be subject to removal by the Guarantor; and four would be appointed by and would be subject to removal in accordance with rules to be agreed between the Guarantor and such organisations as represented substantial proportions of the classes of the employees and former employees of the Principal Employer who are Members of the Scheme Provided that*
 - (a) *the four persons appointed by such organisations shall be persons who are or immediately before retirement were Contributors;*
 - (b) *in the event that it is not possible to agree such rules or there is a dispute as to which organisations represent substantial proportions of the classes of the Principal Employer's employees who were Members of the Scheme the matter shall be referred to a single Arbitrator to be named by the President for the time being of the Law Society. The Arbitrator so named shall have all the powers conferred on Arbitrators by the Arbitration Acts 1950 and 1979;*
 - (c) *with effect from 1st October 1995 two of the persons appointed by organisations referred to above shall (subject to the appointment of replacements) cease to be members of the committee of management and shall be replaced by two persons elected to represent the members of the Scheme in accordance with procedures identical to those set out in the Appendix to the Articles of Association of Coal Staff Superannuation Scheme Trustees Limited; and*
 - (d) *with effect from 1st April 1996 the remaining two persons appointed by the organisations referred to above shall (subject to the appointment of replacements) cease to be members of the committee of management and shall be replaced by two persons elected to represent the members of the scheme in accordance with the procedures identical to those set out in the Appendix to the Articles of Association of Coal Staff Superannuation Scheme Trustees Limited;*
or

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

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

Nature of Scheme

2. *Before the Closure Date* the Scheme shall be a contributory Scheme providing for or in respect of each of the Contributors after qualifying periods of Contributing Service—

- (i) as Normal Benefits (on payment by the Contributor of Normal Contributions) a pension for life on retirement at or after the Normal Retiring Age or earlier through ill-health or a lump sum payment on death before retirement or benefits on withdrawal; and
- (ii) as Family Benefits (on payment by the Contributor of Family Contributions) pensions for the Contributor's spouse and Children; and
- (iii) as Added Benefits (on payment by the Contributor of Added Contributions at his option) further benefits of the nature mentioned in sub-paragraphs (i) and (ii).

CONTRIBUTIONS BY EMPLOYER

Contributions by Principal Employer and Other Employers

5.—(1) Subject to the provisions of this Clause and Clause 6, *before the Closure Date* each Employer shall pay as standard contributions to the Scheme Fund a sum equal to 14.86 per cent. of the Salaries paid by each Employer to Members employed by it in respect of any period during which a Member is in Contributing Service.

(2) Subject to the provisions of Clause 6(1) as regards the cost of benefits payable in respect of Members leaving service after 5th April 1993, the Principal Employer shall make additional contributions to the Scheme as shall from time to time be determined under Rule 50(a).

(4) *Before the Closure Date* every Employer shall pay as deficiency contributions after the coming into operation of any determination of deficiency contributions made by the Actuary under Clause 6, such payments as may become payable by it thereunder or as may be necessary on the advice of the Actuary.

(5) The total amount of the contributions which would otherwise be payable by the Principal Employer under the preceding provisions of this Clause shall be reduced by such sum as may from time to time be agreed by the Principal Employer and the Committee as being fair and reasonable, having regard to the costs of managing and administering the Scheme (other than such costs and expenses as are incurred by virtue of the exercise of the powers conferred by Clause 11) and the cost to the Principal Employer of services rendered by the Principal Employer either directly or indirectly in connection with or for the purposes of the Scheme or, in default of any agreement, as shall be determined to be fair and reasonable having regard to such costs or cost by a chartered accountant who shall be agreed by the Principal Employer and the Committee or, in default of agreement, nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales.

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(6) The total amount of the contributions which would otherwise be payable by an Employer shall be reduced by an amount equal to the difference between the total amount of any Contributions Equivalent Premiums paid by that Employer during any period insofar as they relate to periods of service in respect of which a pension would or might otherwise have become payable under Rule 20AC and the total of the amounts recovered by that Employer during that period under Section 47 of the 1975 Act.

(7) *With effect from the Closure Date all obligations under this Clause 5 regarding the payment of standard contributions and deficiency contributions shall cease. The obligations under paragraph (2) of this Clause in respect of the additional cost of benefits payable in respect of Members who ceased to be Contributors on grounds of redundancy before 6th April 1993 shall continue notwithstanding the arrival of the Closure Date.*

Valuation of Scheme

6.—(1) Following actuarial reviews of the Scheme as at 5 April 1986, 5 April 1989 and 5 April 1992 it was determined by the Principal Employer after consultation with the Committee and in accordance with the provisions of the Scheme at the relevant time that

- (i) the Principal Employer and their wholly owned Subsidiaries be relieved of the obligation to pay standard contributions until 5 April 2002;
- (ii) the total amount of the standard contributions, on becoming payable by the Principal Employer and their wholly owned Subsidiaries, be reduced by 4.4 per cent in respect of the Salaries after 5 April 2002 of Members who were Contributors on 5 April 1992 or who become Contributors to the Scheme between that date and 5 April 1995;
- (iii) every Employer other than the Principal Employer and their wholly owned Subsidiaries be relieved of the obligation to pay standard contributions until 30 June 1995; and
- (iv) the Principal Employer shall not pay additional contributions pursuant to Clause 5(2) in respect of the additional cost of terms granted pursuant to Rule 50(a) to Members leaving service on or after 6 April 1993 but before 5 April 1998 (or such later date as may be agreed between the Principal Employer and the Committee) until the aggregate additional cost of such terms as assessed by the Actuary shall have exceeded £150 million (or such other sum as the Principal Employer and the Committee may from time to time agree).

(2) The Actuary shall make periodic reviews of the financial condition of the Scheme. Each period in respect of which such a periodic review is made—

- (a) shall commence on the day immediately following the end of the period in respect of which the last preceding review was made under this Clause;
- (b) shall not in any event exceed three and a half years; and
- (c) shall be three years unless *prior to the Guarantee Date the Committee or on and after the Guarantee Date the Committee with the consent of the Guarantor* determine otherwise in any particular case.

(4) On each such periodic review *on or before the Guarantee Date*—

- (i) The Actuary shall make recommendations as to the total of the rates of Members' Normal Contributions and Family Contributions and Employers' standard contributions to the Scheme.
- (ii) The Actuary shall determine whether or not, at the review date, there is a surplus or deficiency in the Scheme Fund if contributions after the review date are paid at the rate or rates recommended in sub-paragraph (i) of this

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paragraph. For the purposes of such determination, additional contributions paid or yet to be paid to meet the cost of benefits payable in respect of Members made redundant up to the review date shall be regarded as an asset of the Scheme Fund.

- (iii) The Actuary shall make a report to the Committee on the financial condition of the Scheme specifying the determination made by him under this paragraph. A copy of each review and report so made shall be delivered by the Committee to the Principal Employer, together with any recommendation they may wish to make thereon.

(5) *On a periodic review on or before the Guarantee Date—*

- (a) If there is a deficiency, after allowing for the additional contributions paid or yet to be paid specified in sub-paragraph (ii) of paragraph (4), the Actuary shall determine the total periodic sum, either fixed in money terms or linked to average earnings or prices, (in this paragraph called “the deficiency sum”) which, in his opinion, is required to be paid by way of deficiency contributions to the Scheme over a period not exceeding forty years commencing on such date not earlier than the review date and at such periodic intervals all as shall be determined by the Principal Employer.
- (b) If contributions are not to be paid at the rate or rates recommended in sub-paragraph (i) of paragraph (4) but are to remain at the rates specified in Clause 5 and Rule 11, the Actuary shall make a fresh determination as to whether there is a surplus or deficiency in the Scheme Fund and such determination shall not take account of the admission of any new Members to the Scheme.
- (c) If there is a deficiency on such determination, the Actuary shall determine the deficiency sum in accordance with the provisions of sub-paragraph (a) of this paragraph.
- (d) Having regard to any determination pursuant to paragraph (4) or (5) of this Clause, the Actuary shall review any previous determination of deficiency contributions then operative made by him and shall substitute for such previous determination a fresh determination of deficiency contributions.
- (e) If there is a surplus and such surplus will not be eliminated by the Principal Employer continuing to be relieved wholly or partially from the obligation to pay any contributions in accordance with proposals approved on a previous actuarial review, the Trustee shall make recommendations to the Principal Employer for dealing with any remaining surplus. The Principal Employer shall consider such recommendations and shall make such amendments to the Scheme and take such other actions as they consider appropriate to deal with any such remaining surplus in accordance with the principles set out in this sub-paragraph. Any such remaining surplus shall be applied in accordance with the following order of priorities:—
 - (i) first to provide annual cost of living increases to pensions and frozen pensions in respect of the period of the five preceding calendar years and the period of the calendar year in which such recommendations are put forward insofar as during that period any increase in excess of 5 per cent may not have been made pursuant to Rule 33A having regard to the proviso to sub-paragraph (2) (a) of Rule 33A;
 - (ii) second to suspend the Principal Employer’s obligation to pay standard contributions for such period as may be related to the aggregate of (i) the total amount of any deficiency contributions paid by the Principal Employer during the period of six years ended on the preceding 5 April and (ii) the value of any loss suffered by the Principal Employer during such period as a result of the withdrawal or reduction on any actuarial review of any benefit by way of relief

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- from or reduction in the obligation to pay standard contributions granted to the Principal Employer on an earlier actuarial review;
- (iii) third to provide cost of living increases in respect of every pension (including a frozen pension) payable in relation to the calendar year next following the calendar year in which such recommendations are put forward;
 - (iv) fourth to calculate the amount of the remaining balance after (a) deducting the cost of the changes made pursuant to sub-paragraphs (i), (ii) and (iii) of this paragraph (b) deducting such sum (if any) as may be determined by the Actuary in accordance with paragraph (6) below being the preserved share as therein defined (but so that such sum shall not exceed in any event such amount as would result in the remaining balance being a negative figure) and which shall be applicable for the benefit of the Principal Employer and after (c) retaining in the Scheme such sum (if any) as may be agreed as prudent by the Trustee and the Principal Employer after consultation with the Actuary and to apply, insofar as is practicable, an amount equal to one half of the amount of such remaining balance for the benefit of Members (either by making improvements to benefits or by reducing the rate of contributions, if any, under Rule 11 or eliminating them altogether, for a period) and to apply the other half of such amount for the benefit of the Principal Employer.
- (f) For the purposes of sub-paragraph (e) of this paragraph, “pension” and “frozen pension” shall have the same meanings as in Rule 33A(6).
- (a) (6) This paragraph shall apply for the purposes of the Actuary’s determination of the preserved share under item (b) of paragraph (5)(e)(iv) above.
 - (b) The Actuary shall calculate the unapplied portion, the indexation application and the excess application as hereinafter defined:
 - (i) “the unapplied portion” in relation to an actuarial review means the total identified as applicable for the benefit of the Principal Employer as at the 5 April 1992 actuarial review less the amount applied (but not including the amount treated as applied under sub-paragraph (d) below) since 5 April 1992 up to the review date of the later actuarial review for the benefit of the Principal Employer in accordance with sub-paragraph (5)(e)(iv) above;
 - (ii) “the indexation application” in relation to an actuarial review means the amount (if any) applied under sub-paragraphs (5)(e)(i) and (iii) above following and as a result of that review;
 - (iii) “the excess application” at a given time means the total cost of providing increases since 5 April 1992 up to that time to pensions under Rule 33A in excess of the maximum declared by the Actuary under Rule 33A(2)(b).

In applying this paragraph on any actuarial review the unapplied portion and the indexation application shall be re-calculated in accordance with sub-paragraph (c) below.

- (c) On each actuarial review following that as at 5 April 1992, the unapplied portion and the indexation application in relation to each earlier review shall each be re-calculated by the Actuary to the extent to which he considers it appropriate to take into account the following factors:
 - (i) any divergence between the assumptions made when the sum was first calculated on the one hand, and the actual experience of the Scheme and the assumptions made by the Actuary on the later review on the other hand
 - (ii) such adjustment as the Actuary considers appropriate to make allowance for timing difference and investment returns.

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- (d) “the preserved share” in relation to the actuarial review next following the review as at 5 April 1992 means the unapplied portion in relation to that review and “the preserved share” in relation to any subsequent actuarial review means the preserved share in relation to the immediately preceding actuarial review less the amount (if any) by which the unapplied portion in relation to that subsequent actuarial review falls short of the unapplied portion in relation to the immediately preceding actuarial review but so that there shall be treated for this purpose as having been applied since that preceding review for the benefit of the Principal Employer pursuant to subparagraph (5)(e)(iv) above the amount (if any) by which the preserved share on that preceding review exceeded the sum of the surplus disclosed on that preceding review (taking that surplus as nil if there was a deficiency) and all indexation applications prior to that preceding review other than in relation to the actuarial review as at 5 April 1992 together with the excess application at the time of that preceding review.
- (a) (7) *As soon as practicable after the Guarantee Date the Actuary shall make and advise the Committee of the initial determination of the Investment Reserve which shall be calculated as at the Guarantee Date and shall be the Present Value of the total surplus (expressed in terms of market values) as at the 5th April 1992 actuarial review prior to any provision made for the continuation beyond the date of that review of the Principal Employer’s contribution reduction LESS the aggregate of:—*
- (i) *the Present Value of the capital value (expressed in terms of market values) as at the 5th April 1992 actuarial review of the amount applied for the benefit of Members which for the avoidance of doubt does not include any sum attributable to enhanced early retirement benefits on redundancy granted pursuant to Rule 50(a);*
 - (ii) *the Present Value of the aggregate amounts which would have been contributed to the Scheme by the Principal Employer since 5th April 1992 up to the Guarantee Date as standard contributions but for the suspension of that liability by operation of paragraph (1)(i) of this Clause; and*
 - (iii) *the Present Value of the amount certified by the Actuary as equal to the additional liabilities created by the grant pursuant to Rule 50(a) of enhanced early retirement benefits on redundancy to Members ceasing to be Contributors on or after 5th April 1993 and before the Guarantee Date.*

The Committee on receipt of the advice of the Actuary relating to his initial determination of the Investment Reserve, shall forthwith create such accounts, and make such entries or transfers as are necessary to give proper effect to the establishment of the Investment Reserve as so determined.

- (b) *On each periodic actuarial review following the Guarantee Date the Actuary shall review the determination of the Investment Reserve and where appropriate shall recommend to the Committee that it makes such adjustments to the Investment Reserve as he may consider appropriate in order to:—*
- (i) *provide for transfers from the Investment Reserve to the Guaranteed Fund pursuant to paragraphs (4)(b)(I), (4)(b)(II) or (5)(iv) of Clause 6A;*
 - (ii) *provide for transfers to the Investment Reserve from a surplus in the Guaranteed Fund pursuant to paragraph (4)(a) of Clause 6A;*
 - (iii) *provide for an adjustment to the payments to the Guarantor under (c) below so as to achieve (subject to the need to retain monies to cover future liabilities in respect of enhanced early retirement benefits on redundancy) the reduction of the Investment Reserve to a nil amount over a period of 25 years from the Guarantee Date or such longer period as the Guarantor may from time to time determine;*

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- (iv) provide for the continued application since the later of the Guarantee Date and the last review date by way of transfers to the Guaranteed Fund from the Investment Reserve of amounts for the benefit of the Principal Employer by way of contribution reductions pursuant to paragraph (1)(i) of this Clause;
- (v) provide for the transfer to the Guaranteed Fund out of the sum of £150M referred to in paragraph (1)(iv) of this Clause of the amount certified by the Actuary as equal to the additional liabilities created since the Guarantee Date or the last review date (as the case may be) by the grant pursuant to Rule 50(a) of enhanced early retirement benefits on redundancy of Members ceasing to be Contributors after the Guarantee Date;
- (vi) make allowance in any of the calculations (i) (ii) (iii) (iv) or (v) above or generally in the review of the determination of the Investment Reserve for timing differences, investment returns and future investment returns and for these purposes shall make such actuarial assumptions regarding future investment returns as are consistent with those employed in the periodic review being carried out or where such assumptions are required for the initial determination of the Investment Reserve, the Actuary may make such assumptions as to future investment returns as he shall consider appropriate.

The Committee on receipt of the recommendations of the Actuary relating to his review of the determination of the Investment Reserve, shall forthwith make such adjustments or transfers by reference to items (i) to (vi) above as are indicated in such recommendations.

- (c) Subject to the provisions of Clause 6A which apply in the event of a periodic valuation of the Guaranteed Fund disclosing a deficiency in the Guaranteed Fund, the Committee shall each year following a periodic actuarial review of the Scheme Fund after the Guarantee Date pay to or apply for the benefit of the Guarantor such part of the Investment Reserve as the Actuary shall at that periodic actuarial review determine to be appropriate in respect of the period until the next review.
- (d) For the purposes of this Clause and Clause 6A:—
 - (i) “investment returns” (including capital gains or losses realised or unrealised and net of expenses) shall be attributed to the Investment Reserve, the Guarantor’s Fund or the Bonus Augmentation Fund, as the case may be, every quarter by applying the proportion that the average notional balance in the relevant fund in that quarter bears to the average assets of the Scheme Fund to the total investment return (including capital gains or losses realised or unrealised) earned by the Scheme Fund in that period;
 - (ii) “Present Value” of a previously determined value or amount shall mean that value or amount together with investment returns attributable to the period between the date at which the amount or value was originally determined and the date at which the present value falls to be determined.
 - (iii) the Investment Reserve shall be initially determined as provided in subparagraph (a), subsequently and periodically adjusted as provided in subparagraph (b) and reduced by payments to the Guarantor as provided in subparagraph (c). The provisions of this Clause and Clause 6A regarding the Investment Reserve shall continue to have effect after any time at which it has no assets.

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Valuations after the Guarantee Date

6A.—(1) *On and with effect from the Guarantee Date there shall be created within that part of the Scheme Fund other than the Investment Reserve the following notional sub-funds:—*

- “the Guarantor’s Fund”;*
- “the Bonus Augmentation Fund”;*
- “the Guaranteed Fund”;* and
- “the Crystallised Augmentation Fund”*

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

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

- (a) *There shall be credited to the Guarantor’s Fund:—*
- (i) a share of any surplus under paragraph (4)(a)(ii);*
 - (ii) investment returns calculated in accordance with paragraph (7)(d)(i) of Clause 6; and*
 - (iii) any payments received by the Scheme Fund from the Guarantor following a certification as is referred to in either paragraph (4)(b)(II)(iii) of this Clause or Clause 47(5)(d).*

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

- (I) payments to the Guarantor under paragraph (3)(i); and*
 - (II) transfers to the Guaranteed Fund pursuant to paragraph (4)(b)(II)(iv).*
- (b) *There shall be credited to the Bonus Augmentation Fund:—*
- (i) a share of any surplus under paragraph (4)(a)(i); and*
 - (ii) investment returns calculated in accordance with paragraph (7)(d)(i) of Clause 6.*

There shall be debited from the Bonus Augmentation Fund:—

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

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

- (i) The Committee shall pay from any share transferred to the Guarantor’s Fund under paragraph (4)(a)(ii) amounts (after deduction of any tax due thereon) to the Guarantor as a series of payments over a ten year period beginning on the date of the review. The Actuary shall in respect of each series of ten annual payments determine the amount of the annual payments with the aim that the balance of the share to be paid shall be so paid uniformly over the ten year period and at the first and second periodic reviews following the commencement of the payments the Actuary shall review and if necessary*

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adjust the amounts of the annual payments in any series of payments being made to maintain the uniform payment over the ten year period. Each annual payment shall be made as at 5th April in each year. The last annual payment in a ten year series shall be determined by the Actuary at the third periodic review following the commencement of that series of payments as the amount necessary to complete that series of payments.

- (ii) Subject to Clause 47, no amounts may be paid credited lent or otherwise transferred to the Bonus Augmentation Fund other than amounts credited as investment returns within the meaning of paragraph (7)(d)(i) of Clause 6 or transfers to the Bonus Augmentation Fund as a share of surplus under paragraph (4)(a)(i).*

(4) On each periodic review on or after the Guarantee Date the Actuary (using an actuarial method and assumptions selected by him after consultation with the Committee and the Guarantor) shall determine the value of the assets and liabilities of the Scheme Fund and in particular shall make recommendations as to the total of the rates of Members' Normal Contributions and Family Contributions and Employers' standard contributions to the Scheme and determine whether or not at the review date there is a surplus or deficiency in the Guaranteed Fund if contributions after the review date are paid at the rate or rates he has recommended above. For the purposes of such determination, additional contributions paid or yet to be paid to meet the cost of benefits payable in respect of Members made redundant up to 6th April 1993 shall be regarded as an asset of the Guaranteed Fund. For the purpose of valuing the Scheme Fund the Actuary shall have no regard to the assets comprising the Investment Reserve and when valuing those parts of the Scheme Fund comprising the Bonus Augmentation Fund and the Guarantor's Fund he shall deem the liabilities of the Bonus Augmentation Fund and the Guarantor's Fund to be equal in value to the corresponding assets of the respective funds.

- (a) If such review discloses that there is a surplus in the Guaranteed Fund and if there shall have been a transfer under paragraphs (4)(b) or (5)(iv) of this Clause from the Investment Reserve to the Guaranteed Fund made in any previous review which in the opinion of the Actuary has not been fully re-credited to the Investment Reserve the Present Value of such uncredited amount (as determined by the Actuary), shall be transferred to the Investment Reserve from the surplus. The Actuary shall then review and adjust the Investment Reserve as provided in paragraph (7)(b) of Clause 6. The balance of the surplus (if any) following such transfer or the whole of the surplus if there shall have been no such transfer shall be divided by the Actuary into two equal shares on the basis that:—*

- (i) one share shall be transferred to the Bonus Augmentation Fund and if there shall be liabilities in the Crystallised Augmentation Fund in respect of Guaranteed Crystallised Augmentations the share shall be applied by the Committee to secure Crystallised Augmentations for Members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount as (to the extent as the application of funds will permit) reproduces identically the Guaranteed Crystallised Augmentations being received by such Members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent that they are so reproduced shall be extinguished. The share or the balance of the share (if any) may then be applied by the Committee pursuant to sub-paragraph (d) in augmenting subject to Inland Revenue limits all or any of the pensions in payment or prospectively payable from the Scheme; and*

- (ii) the other share shall be transferred to the Guarantor's Fund.*

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- (b) (I) *If the review discloses that there is a deficiency in the Guaranteed Fund the Actuary shall review the Investment Reserve and adjust it as provided in items (iv) (v) and (vi) of Clause 6(7)(b) and if no Bonus Augmentations are being or have been paid from the Bonus Augmentation Fund the Actuary shall certify such deficiency to the Guarantor and the Committee and the Committee shall thereupon transfer an amount from the Investment Reserve to the Guaranteed Fund for the purpose of eliminating such deficiency. The Actuary shall then complete the review and adjustment of the Investment Reserve pursuant to Clause 6(7)(b). If the deficiency is not eliminated by such a transfer from the Investment Reserve the Actuary shall certify the outstanding deficiency to the Guarantor and the Committee.*
- (II) *If the review discloses that there is a deficiency in the Guaranteed Fund and Bonus Augmentations are being or have been paid from the Bonus Augmentation Fund the Actuary shall certify the deficiency to the Guarantor and the Committee shall review the Investment Reserve and adjust it as provided in items (iv), (v) and (vi) of Clause 6(7)(b) and the Actuary shall:—*
- (i) *determine the amounts which can be transferred from the Investment Reserve to eliminate such deficiency and the Actuary shall then complete the review and adjustment of the Investment Reserve pursuant to Clause 6(7)(b);*
- (ii) *if the amounts referred to at (i) above which can be transferred from the Investment Reserve are not sufficient to eliminate the deficiency, determine the amounts which (when aggregated with transfers of equal value from the Guarantor's Fund) can be transferred to the Guaranteed Fund from the Bonus Augmentation Fund to eliminate the deficiency;*
- (iii) *if amounts fall to be transferred to the Guaranteed Fund from the Bonus Augmentation Fund, certify to the Guarantor and the Committee the balance in the Bonus Augmentation Fund prior to any such transfers and also certify the balance in the Guarantor's Fund after account has been taken of any outstanding liabilities to the Guarantor under paragraph (3)(i) and the amount (if any) which should be added to the Guarantor's Fund so that it equals the Bonus Augmentation Fund; and*
- (iv) *determine the value of any transfers to the Guarantor's Fund made following an earlier periodic review which are transferable from the Guarantor's Fund to the Guaranteed Fund equal to and in parallel with the amounts transferred from the Bonus Augmentation Fund to the Guaranteed Fund under (ii) above.*

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

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- (c) *On each such periodic review on or after the Guarantee Date the Actuary shall make a report to the Committee and the Guarantor on the financial condition of the Scheme Fund and the Guaranteed Fund specifying the determinations made by him under this paragraph.*
 - (d) *If the report on a periodic review on or after the Guarantee Date discloses a surplus in the Guaranteed Fund and as a consequence a transfer is made to the Bonus Augmentation Fund the Committee may as soon as reasonably practicable make recommendations to the Guarantor for the application of the surplus so transferred and any such recommendations shall be accompanied by a statement from the Actuary as to the financial implications of the recommendations. Provided the statement from the Actuary confirms that in his view the recommendations can be supported from the monies which will be available in the Bonus Augmentation Fund the Committee shall with the prior consent of the Guarantor implement the recommendations subject only to such modifications (if any) as shall be agreed between the Committee and the Actuary with the consent of the Guarantor.*
 - (e) *If there is a deficiency in the Guaranteed Fund following a transfer to it of the Investment Reserve and the transfers to the Guaranteed Fund from the Bonus Augmentation Fund and the Guarantor's Fund under sub-paragraphs (b)(II)(ii) and (b)(II)(iv) and there remains a balance in the Guarantor's Fund such balance (or so much as is necessary to eliminate such deficiency) shall be transferred to the Guaranteed Fund with a view to eliminating such deficiency.*
 - (f) *If the Actuary determines in the case of a deficiency in the Guaranteed Fund that following a transfer to it of the Investment Reserve under sub-paragraph (b)(II) and transfers to it from the Bonus Augmentation Fund under sub-paragraph (b)(II) and the Guarantor's Fund under sub-paragraph (b)(II) and (if appropriate) sub-paragraph (e) the deficiency in the Guaranteed Fund will not be eliminated he shall forthwith certify the deficiency to the Guarantor and the Committee.*
- (5) *On each periodic review on or after the Guarantee Date (other than the first such review) the Actuary shall following his review of the Guaranteed Fund carry out a review of the Bonus Augmentation Fund having taken account of the transfers (if any) between the Bonus Augmentation Fund and the Guaranteed Fund to be made in accordance with sub-paragraphs (a) or (b) of paragraph (4) and the liabilities of the Bonus Augmentation Fund created following the application of the share transferred to it under sub-paragraph (a)(i) of paragraph (4) and shall make a report to the Committee and the Guarantor on the financial condition of the Bonus Augmentation Fund. In carrying out such a review the Actuary shall determine whether or not at the review date there is a surplus or deficiency in the Bonus Augmentation Fund:—*
- (i) *if there is a surplus in the Bonus Augmentation Fund and if there shall be liabilities in the Crystallised Augmentation Fund in respect of Guaranteed Crystallised Augmentations the surplus shall be applied by the Committee to secure Crystallised Augmentations in the Bonus Augmentation Fund for Members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount (to the extent the application of funds will permit) as reproduces identically the Guaranteed Crystallised Augmentations being received by such Members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent they are so reproduced shall be extinguished. The Committee may as soon as reasonably practicable make recommendations to the Guarantor for the application of the balance (if any) of the surplus and any such recommendations shall be accompanied by a statement from the Actuary as to the financial implications of the recommendations. Provided*

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the statement from the Actuary confirms that in his view the recommendations can be supported from the surplus in the Bonus Augmentation Fund the Committee shall with the prior consent of the Guarantor implement the recommendations subject only to such modifications (if any) as shall be agreed between the Committee and the Actuary with the consent of the Guarantor;

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

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deficiency to the Guarantor and the Committee. Guaranteed Crystallised Augmentations shall remain a liability of the Crystallised Augmentation Fund until such time as the liability might be extinguished pursuant to paragraphs (4)(a)(i) or (5)(i) or pursuant to (v) below;

- (v) no provisions in Rule 33A relating to the periodic increase to benefits shall apply to Guaranteed Crystallised Augmentations payable from the Crystallised Augmentation Fund or Crystallised Augmentations payable from the Bonus Augmentation Fund but the amounts of Guaranteed Crystallised Augmentations and Crystallised Augmentations shall be reduced in each year by amounts equal to the relevant proportion of the amount of any increase to benefits payable from the Guaranteed Fund made under Rule 33A so that eventually the payment of those Guaranteed Crystallised Augmentations and Crystallised Augmentations which represent former increases to benefits, shall cease. For the purposes of this Clause the “relevant proportion” in relation to either the Crystallised Augmentations or the Guaranteed Crystallised Augmentations of a Member shall be determined by comparing the amounts of whichever is appropriate of the Guaranteed Crystallised Augmentations or the Crystallised Augmentations of the Member with the aggregate of the amounts of the Crystallised Augmentations and the Guaranteed Crystallised Augmentations of the Member;
- (vi) for the purposes of any such review of the Bonus Augmentation Fund, liabilities in respect of Bonus Augmentations shall be valued using an actuarial method and assumptions selected by the Actuary after consultation with the Guarantor and the Committee which are consistent with those used for the review of the Guaranteed Fund;
- (vii) any adjustments to the relationship between the assets and liabilities of the Guaranteed Fund which arise in the course of the review of the Bonus Augmentation Fund shall be carried forward to the next periodic review.

(6) The Actuary shall produce and make available to the Guarantor and the Committee from time to time such certificates as to matters ascertained or determined by him for the purposes of this Clause and Clause 47 (including confirmation that any transfers required under this Clause or Clause 47 have been made) as the Guarantor or the Committee may require in connection with the implementation of any arrangements entered into by the Trustee and the Guarantor pursuant to Clause 44.

Admission of Other Employers and New Members

6AB.—(1) Before the Guarantee Date the Principal Employer may, with the consent of the Trustee, and on and after the Guarantee Date the Guarantor with the consent of the Trustee, may extend the benefit of the Scheme to such employees of any Employer which was not participating in the Scheme as at 2 November 1990 as may be eligible for membership of the Scheme Provided that

- (i) any such Employer shall enter into a deed by which it covenants with the Trustee to comply with and observe the provisions of the Scheme so far as they are applicable to it as an Employer but so that any Employer which was a Subsidiary of the Principal Employer as at 2 November 1990 shall not be required to enter into such a deed; and
- (ii) the participation of any such Employer will not prejudice approval of the Scheme by the Commissioners of Inland Revenue; and

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- (iii) the Trustee shall not be entitled to give its consent unless any such Employer covenants to pay such contributions as the Actuary shall determine to be fair and reasonable and unless the Actuary gives an opinion to the effect that the admission to the Scheme of the existing employees (if any) of any such Employer on the terms proposed is unlikely within the following five years to prejudice significantly the rights or interests of any person already a Member at the date of such admission.
- (a) (2) New employees of Employers (subject to the exceptions mentioned in sub paragraph (b) of this paragraph) shall not be eligible for membership of the Scheme *without the consent of (before the Guarantee Date) without the consent of the Trustee the Trustee or (on and after the Guarantee Date) the Trustee and the Guarantor* Provided that the Trustee shall not be entitled to give its consent unless the Actuary gives an opinion to the effect that the admission of such employees to the Scheme on the terms proposed is unlikely within the following five years to prejudice significantly the rights or interests of any person already a Member at the date of such admission.
- (b) The following categories of new employees shall be excluded from the provisions of sub paragraph (a) of this paragraph:
 - (i) new employees of the British Coal Corporation and of any Employer which at the time of the new employee accepting employment is a Subsidiary of the British Coal Corporation;
 - (ii) new employees of a Principal Employer other than the British Coal Corporation who accept employment in the ordinary course of that part of its business which such Principal Employer shall have acquired from the British Coal Corporation; and
 - (iii) new employees of any other Employer who accept employment in the ordinary course of that Employer's business.
- (3) *After the Closure Date the powers of admission of Employers and new Members under this Clause 6B shall cease.*

MANAGEMENT OF THE SCHEME FUND

Receipts and Payments

8.—(1) Subject to Rule 11A the Committee shall receive for the credit of the Scheme Fund all contributions and other payments (which for the avoidance of doubt shall expressly include income from investments) due to the Scheme. All payments received by the Principal Employer in connection with the Scheme shall be paid by the Principal Employer to the Scheme Fund.

(2) All payments required to be made under the Scheme shall *subject to paragraph (3) of this Clause* be made by the Committee from the Scheme Fund, and, in the event of the Fund not being sufficient to make such payments, then, to the extent of such insufficiency, they shall be made by the Principal Employer *before the Guarantee Date and by the Guarantor after the Guarantee Date to the extent provided for in any arrangements entered into by the Trustee pursuant to Clause 44.*

(3) *With effect from the Guarantee Date all payments of Bonus Augmentations or Crystallised Augmentations other than Guaranteed Crystallised Augmentations shall be debited only from the Bonus Augmentation Fund.*

Investment

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

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

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

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

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

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

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

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

9A.—(1) Notwithstanding the provisions of Clause 9 no part of the Scheme Fund shall at any time be invested in employer-related investments as defined in paragraph (2) of this Clause save that the Scheme Fund may at any time be invested in not more than 3 per cent of any class of any securities issued by an Employer or any such company as is referred to in sub-paragraph (a)(i) of paragraph (2) of this Clause which are listed or permitted to be dealt in on any recognised stock exchange.

(2) For the purposes of this Clause:—

- (a) “employer-related investments” means—
 - (i) shares or other securities issued by an Employer or by any holding company as defined in section 736 of the Companies Act 1985 of an Employer or by any

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company in which an Employer or such holding company holds a majority of the voting rights;

- (ii) property (other than land) which is used for the purposes of any business carried on by an Employer or any such company as is referred to in sub-paragraph (a)(i); and
- (iii) loans to an Employer or any such company as is referred to in sub-paragraph (a)(i).

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

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

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

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

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

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

as though such a partnership were an investment authorised under paragraph (1) of Clause 9.

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

10A. *The Committee shall with effect from the Guarantee Date exercise and perform their powers and duties under Clauses 9, 9A and 10 in accordance with and subject to any directions as the Guarantor may from time to time make. Provided that the Guarantor will only make such directions after consultation with the Committee unless in exceptional circumstances such consultation is impracticable.*

11.—(1) Without prejudice to the provisions of or to any powers conferred by Section 23 of the Trustee Act 1925 or Clauses 9 and 10, the Committee shall have power (*such power to be exercisable after the Guarantee Date only with the consent of the Guarantor*) to employ such nominees or agents as the Committee may think fit in the transaction of any business of the

Scheme (including the payment of pensions and other benefits) and any valid receipt therefor given to or by such nominee or agent shall be a good and sufficient discharge to the Committee.

(2) Without prejudice to the generality of the foregoing and the provisions of Clauses 27 and 27A, the Committee shall have power (*such power to be exercisable with effect from the Guarantee Date only with the consent of the Guarantor*) to appoint and remove one or more investment managers to the Scheme and to authorise any such investment manager to exercise all or any of their powers set out in Clauses 9, 10 and paragraph (1) of this Clause on such terms as to remuneration and otherwise as shall from time to time be agreed between the Committee (*with effect from the Guarantee Date with the consent of the Guarantor*) and such investment manager or managers.

Cost of Administration

11B.—(1) The Committee shall at such times and in such manner as may be agreed between the Committee and the Principal Employer pay to the Principal Employer such amounts as are certified by a duly authorised officer of the Principal Employer to have been expended by the Principal Employer in the payment of benefits under the Rules.

- (a) (2) Subject to the provisions of Clause 5 the costs of managing and administering the Scheme (other than such costs and expenses as are incurred by virtue of the exercise of the powers conferred by Clause 11) and the cost to the Principal Employer of services rendered by the Principal Employer either directly or indirectly in connection with or for the purposes of the Scheme in so far as incurred in either case on or after 6 April 1986 *and before 6 April 1995* shall be borne by the Principal Employer.
- (b) The costs and expenses incurred by virtue of the exercise of the powers conferred by Clause 11 in so far as incurred on or after 6 April 1986 *together with the costs of managing and administering the Scheme and the cost to the Principal Employer of services rendered by the Principal Employer referred to in (a) above incurred on or after 6 April 1995* shall be payable by or with the authority of the Committee out of the Scheme Fund *other than the Investment Reserve*.

ACCOUNTS AND AUDIT

Accounts to be kept

12.—(1) The Committee shall cause to be kept full and true accounts of the Scheme Fund and of all sums of money received and expended by the Committee and by all persons employed by or under them, and shall cause to be kept full and complete records of all matters necessary or proper to be recorded. Separate accounts shall be kept in relation to additional voluntary contributions made by Contributors under Rule 11A.

(2) *The Committee shall create and maintain and cause to be incorporated in the Statement of Accounts and the Auditors' Report thereon, separate accounts showing the workings of each of the Investment Reserve, the Guarantor's Fund, the Bonus Augmentation Fund, the Crystallised Augmentation Fund and the Guaranteed Fund recording in full the accretions to and the payments from and transfers between each of those Funds. The terms of Bonus Augmentations, Crystallised Augmentations (if any) and Guaranteed Crystallised Augmentations (if any) shall be recorded and documented separately in Appendix VI. The terms on which any Guaranteed Crystallised Augmentations cease to be a liability of the Guaranteed Fund as a consequence of the application of later surpluses in the Bonus Augmentation Fund shall also be recorded in a similar manner. In respect of the benefits payable or secured out of the Bonus Augmentation Fund or otherwise records shall be kept of all Bonus Augmentations,*

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Crystallised Augmentations and Guaranteed Crystallised Augmentations in respect of each Member entitled to the same showing the amounts paid or payable.

Appointment of Auditors

12A. The Committee shall from time to time with the consent of the Principal Employer appoint some person or firm with proper professional qualifications to be the auditors to the Scheme upon such terms as to duties and remuneration as the Committee and the Principal Employer may think proper. No member of the Committee and none of the directors or executive officers of any corporate trustee of the Scheme shall be eligible for appointment as the auditors to the Scheme. The terms of any appointment of auditors under this Clause shall comply with The Occupational Pension Schemes (Auditors) Regulations 1987.

Appointment of Auditors

12A. *The Committee shall with effect from the Guarantee Date and from time to time with the consent of the Guarantor appoint some person or firm with proper professional qualifications to be the auditors to the Scheme upon such terms as to duties and remuneration as the Committee and the Guarantor may think proper. No member of the Committee and none of the Directors or executive officers of any corporate trustee of the Scheme shall be eligible for appointment as the auditors to the Scheme. The terms of any appointment of auditors under this Clause shall comply with the Occupational Pension Schemes (Auditors) Regulations 1987.*

Annual Statement

13. The books of the Scheme shall be balanced as at 5th April 1948, and the 5th April in each subsequent year and a Statement of Accounts (including a Balance Sheet), which shall exhibit a true and correct view of the state of the Scheme, shall forthwith be made up.

Audit of Accounts

14. The Statement of Accounts made up to the 5th April in each year shall be delivered not later than the following 31st August to the Auditors who shall make a report thereon and the Auditors shall be furnished with all vouchers relating to the items shown in such Statement of Accounts and the Committee, the Secretary and any other person appointed under Clause 16 to perform services in connection with the Scheme shall on request give to the Auditors all explanations and information in their power.

Committee to produce Accounts at Annual Meeting

15. The Committee shall cause the Statement of Accounts and the Auditors' Report thereon, together with the Committee's Report on the working of the Scheme, for the period covered by the Accounts, to be produced to the Members assembled at the Annual Meeting. Copies of these documents shall be delivered to the Principal Employer (*before the Guarantee Date*) or to the Guarantor (*on and after the Guarantee Date*) and exhibited on notice boards or otherwise *publicised* as the Committee may determine, and copies shall be handed or sent to any Contributor who applies therefor *and on and after the Guarantee Date likewise to any Member who so applies.*

Committee to supply information to the Guarantor

15A. *The Committee shall (i) promptly supply to the Guarantor information regarding the Scheme including without prejudice to the generality of the foregoing copies of reports prepared received or commissioned by the Committee regarding the management of the*

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Scheme and the investment of the assets of the Scheme and (ii) promptly supply such further information as the Guarantor may request.

OFFICERS AND ADMINISTRATION

Appointment & Remuneration of Officers

16. *Before the Guarantee Date* the Principal Employer with the approval of the Committee (or the Committee with the approval of the Principal Employer) shall from time to time appoint from persons in Eligible Employment the Secretary and such other persons as may be requisite to administer the Scheme and may at any time remove any person or persons so appointed. *On and after the Guarantee Date the Committee shall from time to time with the consent of the Guarantor appoint the Secretary and such other persons as may be requisite to administer the Scheme and may at any time remove any person or persons appointed under this Clause.* The remuneration of the Secretary and any other persons so appointed to perform services in connection with the Scheme shall be approved by the Principal Employer and the Committee *(before the Guarantee Date) or by the Guarantor and the Committee (on and after the Guarantee Date)* and be paid or arranged to be paid by the Employer *and borne in the same manner as the costs referred to in whichever is applicable of sub-paragraphs (a) and (b) of paragraph (2) of Clause 11B.*

Duties of the Secretary

17. The Secretary shall—

- (i) keep the records of the membership of the Scheme (including, in the case of a Contributor contributing for Family Benefits, a record of the Dependants who may become entitled to benefits on the death of the Contributor) together with books and papers relating to the Scheme and the business thereof;
- (ii) report to the Committee, in such manner as the Committee may from time to time direct, on the costs of managing and administering the Scheme, applications for allowances or payments under the Scheme, and other matters to be brought under the consideration of the Committee;
- (iii) give notice of all General Meetings;
- (iv) record the minutes of the proceedings of all General Meetings;
- (v) be a member of the Standing Sub Committee and the Investment Sub Committee appointed in pursuance of Clause 27(i) and, in so far as the Committee so agree, of any other sub-committee appointed under Clause 27(ii) *but shall not be entitled to vote at meetings of such sub-committee;* and
- (vi) perform such other duties in connection with the Scheme as the Committee may from time to time direct.

Payment of Benefits

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

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COMMITTEE OF MANAGEMENT

Powers of Committee

24. The Committee shall decide on all claims made upon the Scheme and (subject to the provisions of Clause 27A and to the other powers and provisions referred to in paragraph (1) of that Clause) shall exercise all such other powers as are referred to in Clause 1A(4)(b) and the Committee shall be entitled in determining any question to consider and act upon such evidence as they shall deem satisfactory, whether or not the same would constitute admissible evidence in legal proceedings, and every decision given by the Committee on any matter within their competence shall be final and binding on all persons affected thereby.

Sub-Committees

- (i) The Committee shall appoint:
 - (a) a Standing Sub-Committee consisting (subject to the provisions of Clause 17(v)) of two Principal Employer's Committee-men and two Contributors' Committee-men for the conduct of the day to day business relating to the Scheme; and
 - (b) an Investment Sub-Committee to exercise such powers referred to in Clause 1A(4)(b) (other than those to be exercised by the Standing-Sub Committee under or by virtue of sub-paragraph (a) hereof) as the Committee shall think fit and consisting (subject to the provisions of Clause 17(v)) of such member or members of its body, with or without other persons not being members of its body, as the Committee shall think fit.
 - (c) for so long as it may determine an Administration Sub-Committee for the purpose of approving and monitoring all those expenses relating to the administration and the investments, agreed by the Committee to be borne by the Scheme, and consisting of any two of the Contributors' Committee-men, (as determined from a membership rota agreed by them) and two of the Principal Employer's Committee-men and the Secretary. A member may appoint or remove by notice in writing to the Secretary any member as an additional member to attend and vote for him in his absence. The Sub-Committee may invite to attend any other persons, whether or not being members of the Committee, as it shall think fit.
- (ii) The Committee may delegate any of the powers referred to in Clause 1A(4)(b) (other than those to be exercised by the Standing Sub-Committee or the Investment Sub-Committee under or by virtue of paragraph (i) hereof) to any other sub-committees consisting (subject to the provisions of Clause 17(v) *and the Articles*) of such member or members of its body, with or without other persons not being members of its body, as it shall think fit.
- (iii) Any sub-committee so appointed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Committee. The meetings and proceedings of any sub-committee consisting of two or more members shall, subject to the provisions of the Articles, be governed by such of those provisions as relate to the meetings and proceedings of the Committee so far as the same may be applicable and are not superseded by any regulation made for such sub-committee under this Clause.

Delegation by Committee

27A.—(1) Without prejudice to the provisions of or to any powers conferred by section 23 of the Trustee Act 1925 or Clauses 1A, 9, 10, 11 and 27, the Committee may delegate to any one or more persons or bodies of persons (each of whom or which is in this Clause called “the delegate”) in any part of the world, whether nominated directly by the Committee or nominated by any other person or body of persons authorised by them to do so (and including, for the avoidance of doubt, any nominee or custodian or other trustee appointed under Clause 9, any person or body of persons with whom or which any agreement is or has been entered into under Clause 11 or any sub-committee appointed under Clause 27) the exercise of all or any of the powers referred to in Clause 1A(4)(b), for such period and on and subject to such terms, limitations and conditions, if any, as the Committee may think fit.

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

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

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

GENERAL MEETING

Holding of General Meetings

27B. *On and with effect from 1st January 1995 the provisions of Clauses 28 to 42 inclusive shall have effect so that all references to “Contributor” or “Contributors” shall include references to former Contributors in receipt of or prospectively entitled to receive a pension from the Scheme and all other persons over the age of 18 in receipt of benefit from the Scheme.*

Annual Meetings

28. An Annual General Meeting of the Contributors shall be held at such place not later than the 31st December in every calendar year commencing with the year 1948 as the Committee shall from time to time appoint for the purpose of receiving a Report from the Committee and the Annual Statement of Accounts and for the conduct of the general business of the Scheme.

Notice of Resolution

29. No Contributor may move a Resolution at the Annual Meeting unless prior to the 1st July next before the date of such Meeting he gives to the Secretary notice in writing signed by himself and setting forth the proposed Resolution.

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Extraordinary Meetings

30. An Extraordinary Meeting may at any time be convened by the Committee and shall be convened within 21 days if the Secretary receives a requisition, stating the purpose for which the Meeting is desired, signed by at least twenty-five Contributors. The notice convening an Extraordinary Meeting shall specify the general nature of the business to be transacted and no business not so specified shall be transacted thereat. An Extraordinary Meeting shall be held at such place and time as the Committee shall appoint.

Notice of Meetings

31. The Secretary when convening any General Meeting shall give, in such manner as the Committee may determine, not less than seven days' notice to Contributors of the date, place and hour appointed for such Meeting and of the business to be transacted thereat. The non-receipt by a Contributor of a notice shall not invalidate the proceedings at any Meeting. The Committee shall have full discretion in determining the manner in which notice of any meeting shall be given and (without prejudice to the generality of the foregoing) may determine that the same shall be given by the delivery (by post or otherwise) of individual notices or by advertisement or by the exhibition of notices or otherwise and may determine that such notice be given in one manner to some class or group of Contributors and in another manner to another class or group thereof.

Chairman of Meetings

32. The Chairman of the Committee or, if he be not present, the Deputy Chairman, or failing him a Principal Employer's Committee—*man member or after the Guarantee Date a Guarantor's Committee-member* selected in that behalf by the Committee shall be the Chairman of every General Meeting.

Quorum at Meetings

33. Ten Contributors shall (except as provided by the next following Clause) form a quorum at a General Meeting and no business (except the adjournment of the Meeting) shall be transacted at any such Meeting unless a quorum is present when the Meeting proceeds to business.

Adjournment in absence of Quorum

34. If within fifteen minutes from the time appointed for the holding of a General Meeting a quorum is not present the Meeting if convened on a requisition of Contributors shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same place and time, and if at such adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding the Meeting, the Contributors then present and entitled to vote shall form a quorum for that meeting.

Resolutions at General Meetings

35. Every Resolution moved at a General Meeting shall have been decided in the first instance by a show of hands of the Contributors present and unless a poll is demanded by not less than five Contributors present and voting, a Resolution declared by the Chairman of the Meeting to have been carried shall be deemed to be the Resolution of the Meeting.

Votes at General Meetings

36. Each Contributor present at a General Meeting shall have one vote. Each Principal Employer's Committee—*manmember or after the Guarantee Date a Guarantor's Committee-member* shall be entitled to be present and vote and otherwise to act at a General Meeting whether a Contributor or not and in case of an equality of votes the Chairman of the Meeting shall have a second or casting vote. A Contributor who is present and is proxy for any other Contributor shall in the event of a poll being demanded and taken have in addition to his own vote one vote for each such Contributor for whom he is proxy.

Poll—How to be taken

37. If a poll is demanded at any meeting it shall be taken at such time and in such manner as the Chairman of the meeting may direct and the result of the poll as declared by the Chairman shall be deemed to be a Resolution of the Meeting at which the poll was demanded.

Proxies

38. A Contributor may appoint any other Contributor as his proxy for voting at a General Meeting. Such appointment shall be made by an instrument of proxy which shall be in such form as shall be prescribed or approved from time to time by the Committee and shall be signed by the Contributor appointing the proxy and shall be addressed to the Secretary at (*before the Closure Date*) the National Headquarters of the Principal Employer or (*on and after the Closure Date*) as specified on the proxy form and forwarded so as to reach that office at least forty-eight hours before the time appointed for holding the Meeting therein specified and shall be available only for such Meeting and any adjournment thereof.

Revocation of Proxy

- 39.** Every such instrument of proxy shall be valid until it is either—
- (i) revoked by a notice in writing under the hand of the appointing Contributor and addressed to the Secretary at (*before the Closure Date*) the National Headquarters of the Principal Employer or (*on and after the Closure Date*) as specified on the proxy form and forwarded so as to reach that office before the time fixed for the Meeting for which such proxy shall have been given; or
 - (ii) annulled by the attendance of the appointing Contributor at such Meeting.

Adjournment of General Meetings

40. The Chairman of a General Meeting at which a quorum is present may, with the consent of the Meeting, adjourn the Meeting to any hour of the same or to a later day. Whenever a General Meeting is adjourned for ten days or more notice of the adjourned Meeting shall be given in the same manner as of an original Meeting, but save as aforesaid a Contributor shall not be entitled to any notice of an adjournment or of the business to be transacted at an adjourned Meeting. No business shall be transacted at an adjourned Meeting other than the business which might have been transacted at the Meeting from which the adjournment took place.

Minutes of Meetings

41. Minutes of the proceedings of every General Meeting shall be recorded by the Secretary in a book to be kept for that purpose and such minutes after approval by the Committee shall be signed within thirty days of such Meeting by the Chairman of such Meeting or him failing by two other members of the Committee present thereat and such minutes when so recorded

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and signed shall, in the absence of proof of error therein, be conclusive evidence of such proceedings.

Powers of Meetings

42. The Contributors in General Meeting shall have no powers except such as are conferred upon them expressly or by implication by the Scheme.

MISCELLANEOUS

Right of Employer to terminate employment

43. Nothing in the Scheme or the Rules shall be deemed to restrict in any way the right of an Employer to terminate the employment of any Contributor.

Powers in relation to the Secretary of State

44.

- (i) *The Trustee shall have power to enter into such arrangements with the Secretary of State as the Secretary of State is authorised to enter into in accordance with paragraph 2(9) of Schedule 5 to the 1994 Act.*
- (ii) *The terms of any arrangements made with the Secretary of State pursuant to this Clause may only be varied by the Trustee on a resolution supported by not less than 6 members of the Committee.*

Alteration of Scheme and Rules

45.—(1) *Before the Guarantee Date* The Principal Employer may from time to time and after prior consultation with the Trustee Committee *and after the Guarantee Date the Guarantor may from time to time and after prior consultation with the Committee* 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 will have the effect of—

- (i) altering the main purpose of the Scheme from that of providing superannuation annuities for Contributors on retirement;
- (ii) making any of the moneys of the Scheme payable to any of the Employers;
- (iii) reducing the amount of any superannuation benefits (*apart from Bonus Augmentations other than Guaranteed Crystallised Augmentations*) accrued to a Member or to any person who by reason of his or her relationship to a Member is or at any time may become entitled to benefits on the death of a Member;
- (iiia) *reopening the Scheme on or after the Closure Date;*
- (iv) amending Clause 1B, Clause 1C(3), the proviso to Clause 1C(4), Clause 44(ii) or the proviso to Clause 47(4); or
- (v) increasing the contribution of or reducing prospective benefit to any then existing Contributors (*apart from prospective benefit attributable to Bonus Augmentations other than Guaranteed Crystallised Augmentations*) unless such increase or reduction is approved by a Resolution passed by a majority of not less than two-thirds of such of the Contributors affected as shall vote on the matter either personally or by proxy, at an Extraordinary Meeting of which due notice shall have been given specifying the intention to propose such increase or reduction. Provided that in the event of any alteration of benefits

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under Rule 21 altering the ratio previously prevailing between lump sum and pension, then if such alteration has the effect of reducing the proportion of the Contributor's Pensionable Salary on which either benefit is based, such alteration in ratio shall not be binding upon any Contributor who is in the service at the date of the Extraordinary Meeting at which such alteration is approved as aforesaid, if, within one month after that date, he shall express in writing, addressed to the Secretary, a desire for the continuance in his case of the right to benefits in the form of a lump sum and pension bearing to one another the ratio previously prevailing; but in that event the amount of the lump sum and of the pension in the case of such Contributor shall be fixed by the Actuary so as to preserve the said ratio while at the same time being equivalent in total value to the benefits which would otherwise be payable.

(2) *Before the Closure Date* no amendment shall be made to Clause 6B of the Scheme without a resolution passed by the votes of not less than seventy-five per cent of the members of the Committee.

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

(4) *After the Guarantee Date the powers of alteration, deletion and addition granted under paragraph (1) of this Clause shall not be exercised (whether in relation to Clause 6A, Clause 47 or otherwise) in such a way as to render ineffective, in whole or in part, such arrangements as have been entered into by the Committee and the Guarantor pursuant to Clause 44 and are for the time being in force.*

Indemnity

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

- (a) the Trustee, the members of the Committee, the Former Committee and every sub-committee of the Committee or the Former Committee;
- (b) the Secretary and the members of any Advisory Panel appointed by the Committee;
- (c) *until the Closure Date only but without prejudice to any liabilities incurred prior to that date* the Principal Employer, CIN Management Limited and its wholly owned subsidiaries and any officer or employee of any of them; and
- (d) any other person to whom the Committee *and with effect from the Guarantee Date the Committee with the consent of the Guarantor* shall have determined under paragraph (5) of this Clause that this Clause shall apply (but subject to the terms of any determination so made).

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

(3) No person protected by this Clause shall be accountable or answerable for the acts, receipts, neglects or defaults of any other person acting in relation to the Scheme or by joining in any receipt for the sake of conformity or for the acts, receipts, neglects or defaults of

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any bankers or other persons with whom any moneys investments or effects belonging to the Scheme shall or may be lodged or deposited for safe custody or for the insufficiency or deficiency of any security or investment upon which any moneys of the Scheme shall or may be placed out or invested or for any loss misfortune or damage which the Scheme or any beneficiary or other person claiming under the Scheme shall or may sustain except as a result of a wilful or reckless act or omission by the protected person known by him to be a breach of trust or breach of duty in relation to the Scheme or done or omitted by him recklessly as to whether or not it is such a breach of trust or duty.

(4) No person protected by this Clause shall be answerable for any failure to recover or take steps to recover any instalment or part of an instalment of an annual payment paid after or in respect of a period after the death of the person who was or would otherwise have been entitled to such annual payment.

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

Discontinuance of the Scheme

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

(2) The words and expressions used in this Clause shall have the same meanings as in the 1975 Act.

(4) The Scheme shall continue for such period as is allowed by law *or until such earlier date as the Trustee and the Guarantor shall determine provided that any resolution of the Committee in this respect shall not be valid unless supported by at least 6 members thereof. The date on which the Scheme determines by operation of law or the effective date of determination referred to above shall be referred to as "the Termination Date"*. Subject as hereinafter provided upon the discontinuance of the Scheme (*which for the avoidance of doubt shall not be caused with effect from the Closure Date by the closure of the Scheme or by the discontinuance of contributions to the Scheme*), the Scheme Fund shall be dealt with for the benefit of those Members and Dependants entitled to benefits under the Scheme by realisation of the Scheme Fund at such time or times as the Trustee shall think fit in the light of prevailing investment conditions and application of the net proceeds thereof in accordance with the following paragraphs of this Clause. *The Trustee shall cause the Actuary to carry out a valuation of the Scheme Fund as at the Termination Date (using an actuarial method and assumptions selected by him after consultation with the Trustee and the Guarantor) to assess (inter alia) whether at the Termination Date the assets of the Guaranteed Fund are likely to be sufficient to secure the Guaranteed Liabilities as defined in paragraph (5)(d) of this Clause. For the purposes of this Clause on the discontinuance of the Scheme the Investment Reserve shall not form part of the Scheme Fund.* Notwithstanding the foregoing provisions the Trustee shall have power on giving notice to each of the Members to transfer, with the consent of the Members, the Scheme Fund *the Guaranteed Fund and the Bonus Augmentation Fund* (or the appropriate part or parts thereof) in such amounts and on such terms as the Actuary may certify as equitable, having regard to the rights to and expectations of benefits of those Members for whom provision is made in this way, to one or more new or existing retirement benefits schemes approved by the Commissioners of Inland Revenue. *For the avoidance of doubt the powers of the Trustee on the discontinuance of the Scheme shall include the power to make use of, vary or novate any arrangements entered into by the Trustee with the Secretary of State pursuant to Clause 44 or to enter into any additional or supplemental arrangements.*

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(5) The Trustee shall be entitled to reserve out of the Scheme Fund *Guaranteed Fund* such amount as it considers may be necessary to meet all proper costs, charges and expenses of and incidental to the realisation and/or transfer of the Scheme Fund and the winding-up of the Scheme and all taxes and duties for which the Trustee may be accountable under the Scheme and, subject thereto and subject in all cases to Rule 69, the balance of the Scheme Fund *Guaranteed Fund* shall be applied as follows for the benefit of those Members and other persons whose rights to and expectations of benefits have not been secured by a transfer to any other retirement benefits scheme pursuant to paragraph (4) of this Clause and (in the case of a Member who was a Contributor on the date of discontinuance *Termination Date if the Termination Date is before the Closure Date*) on the basis that he ceased to be a Contributor on that date:—

- (a) in securing *subject to the provisions of sub-paragraph (d) of this paragraph* (in equal priority as between themselves) to any other liabilities of the Scheme liabilities in respect of:—
- (i) subject to Inland Revenue Limits, such additional pensions and other benefits provided from the AVC Scheme pursuant to Rule 11(A) as the Trustee shall determine to be appropriate in relation to any additional voluntary contributions made by Contributors pursuant to Rule 11(A);
 - (ii) Guaranteed Minimum Pensions and accrued rights to Guaranteed Minimum Pensions;
 - (iii) any such benefits as are excluded by Section 33(5) of the 1975 Act from earners' Guaranteed Minimum Pensions;
 - (iv) pensions and other benefits in respect of which entitlement to payment has already arisen other than *Bonus Augmentations, Crystallised Augmentations which are a liability of the Bonus Augmentation Fund* and those included in sub-paragraphs (a)(i), (a)(ii), (a)(iii) and (a)(viii) of this paragraph;
 - (v) state scheme premiums;
 - (vi) where an earner has attained Normal Retiring Age, pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*), in so far as they do not fall within the foregoing provisions of this paragraph, to which the earner will be entitled on ceasing to be in employment;
 - (vii) where an earner has attained Normal Retiring Age, or has retired before Normal Retiring Age with an immediate pension but at the time of winding-up has not attained Normal Retiring Age, pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*), in so far as they do not fall within the foregoing provisions of this paragraph, to which the earner's widow or widower or any Dependants of the earner will be entitled on the death of the earner; and
 - (viii) *benefits which are Guaranteed Crystallised Augmentations as at the day preceding the Termination Date*

Provided that if the assets of the Scheme are not sufficient to meet in full the liabilities of the Scheme as aforesaid, such assets shall be applied to meet those liabilities in the same order of priority as the order in which those liabilities are specified in sub-paragraph (a) of this paragraph, save that the liabilities specified in sub-paragraphs (a)(ii), (a)(iii) and (a)(iv) shall be accorded priority as between themselves in the order of sub-paragraphs (a)(iv) with the omission of the words “other than those included in sub-paragraphs (a)(i), (a)(ii) and (a)(iii) of this paragraph”, (a)(iii) and (a)(ii) of this paragraph;

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- (b) subject to sub-paragraphs (a) and (d) of this paragraph, in securing (in equal priority as between themselves) liabilities in respect of:—
- (i) entitlement to pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*) of those Members (*not being Members referred to in sub-paragraph (b)(ii) of this paragraph*) who had ceased to be Contributors on or before the date of discontinuance *Termination Date* and who had not attained at that date Normal Retiring Age or earlier age at which benefits become payable to them under the Rules;
 - (ii) entitlement to a refund of contributions with compound interest pursuant to Rule 23(4) for those Members who are *were* Contributors at the date of winding-up *immediately before the Closure Date* and, on the date of discontinuance *Termination Date*, had less than two years of Qualifying Service; and
 - (iii) entitlement to pensions and other benefits (*other than Bonus Augmentations or Crystallised Augmentations which are a liability of the Bonus Augmentation Fund*) of Dependants whose benefits are expectant or contingent on the death of any such Member as is referred to in sub-paragraph (b)(i) of this paragraph.
- (c) *Subject thereto, in increasing annually after the Termination Date the amount of each of the benefits (whether payable or prospectively payable) referred to in sub-paragraphs (a)(iv), (a)(vi), (a)(vii) and sub-paragraphs (b)(i) and (b)(iii) by indexation in line with the increase in the cost of living index calculated by applying (subject only to Rule 69) the provisions of Rule 33A;*
- (d) *If the Actuary certifies that the application of the Guaranteed Fund to the liabilities referred to in sub-paragraphs (a), (b) and (c) above (“the Guaranteed Liabilities”) is insufficient to meet the Guaranteed Liabilities there shall be transferred to the Guaranteed Fund from the Investment Reserve assets to eliminate the deficiency and if the Investment Reserve does not eliminate the deficiency there shall be transferred from the Guarantor’s Fund and the Bonus Augmentation Fund, assets in equal measure until the Guaranteed Fund is sufficient to meet the Guaranteed Liabilities or the Bonus Augmentation Fund is exhausted, whichever first occurs. If pursuant to this paragraph an amount is transferable from the Guarantor’s Fund to the Guaranteed Fund the Actuary shall certify to the Guarantor and the Committee the amount which should be transferred to the Guarantor’s Fund to ensure the Guarantor’s Fund equals the Bonus Augmentation Fund.*
- (e) *After any transfers to the Guaranteed Fund from the Bonus Augmentation Fund under (d) above have been completed the Actuary shall determine and compare the value of the assets of the Bonus Augmentation Fund with the value of the liabilities of the Bonus Augmentation Fund but with such liabilities which are in the form of Bonus Augmentations recalculated as Crystallised Augmentations in the manner provided in Clause 6A(5)(ii) and if the value of the assets of the Bonus Augmentation Fund exceeds the value of the Crystallised Augmentations, the Committee may apply such excess in the same manner as is provided in Clause 6A(5)(iii).*
- (f) *If the value of the assets of the Bonus Augmentation Fund is less than the value of the liabilities in respect of Crystallised Augmentations, the Actuary shall certify to the Guarantor and the Committee the amount of such deficiency in the Bonus Augmentation Fund.*

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- (g) *If following the transfers of assets to the Guaranteed Fund from the Guarantor's Fund and the Bonus Augmentation Fund in accordance with sub-paragraph (d) above the assets of the Guaranteed Fund are insufficient to secure the Guaranteed Liabilities the Actuary shall certify such deficiency to the Guarantor and the Committee.*
- (h) *If following the application of the Guaranteed Fund, the Guaranteed Liabilities are fully secured and a balance of assets remains in the Guaranteed Fund and if there shall have been a transfer under Clause 6A(4)(b) from the Investment Reserve to the Guaranteed Fund made in any previous actuarial review of the Scheme which in the opinion of the Actuary has not been fully credited the Present Value of such uncredited amount (as determined by the Actuary) shall to the extent available be transferred to the Investment Reserve from the Guaranteed Fund. The balance of the Guaranteed Fund (if any) following such transfer to the Investment Reserve or the whole of the balance if there shall have been no such transfer shall be divided by the Actuary into two equal shares on the basis that one share shall be transferred to the Bonus Augmentation Fund and the other share shall be transferred to the Guarantor's Fund and thereupon the Bonus Augmentation Fund shall be applied in accordance with paragraphs (6) and (7) of this clause.*
- (a) (6) The amount allocated (after consultation with the Actuary) to or in respect of each Member and Dependant pursuant to paragraph (5) shall be applied (in so far as is practicable) either in the payment of state scheme premiums or in the purchase of a non-assignable and (save as herein otherwise provided) non-commutable annuity from such Approved Insurer as the Trustee in each case may determine.
- (b) In the case of existing pensioners and Members who have reached Normal Retiring Age but remain in Eligible Employment such annuity shall be an immediate annuity and in the case of prospective pensioners such annuity shall be a deferred annuity commencing not earlier than the date on which a pension could have become payable to the Member had the Scheme been continued but so that for the purposes of this sub-paragraph—
 - (i) the provisions of Rule 22(c) shall not apply and a Member who is a Contributor on the date of winding-up *Termination Date* shall be treated as having ceased to be a Contributor on that date; and
 - (ii) the Trustee (after consultation with the Actuary) shall have a discretion to vary the terms and conditions on which benefits are payable to a Member who has to retire through ill-health after the date of discontinuance *Termination Date*.
- (c) Any such annuity shall be commutable so as to provide a cash lump sum on such terms as may be approved by the Commissioners of Inland Revenue.
- (d) The obligation to provide annuities to secure Children's benefits pursuant to Rule 30 shall be limited to Children born prior to the date of discontinuance *Termination Date* or within twelve months of such date.

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

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(7) If, after application of the *balance of the Scheme Guaranteed Fund* pursuant to paragraph (5)(h) of this Clause, there shall remain any surplus thereof *a balance in the Bonus Augmentation Fund over what is needed to secure Bonus Augmentations and Crystallised Augmentations* the Trustee shall *secure Crystallised Augmentations for Members in receipt of Guaranteed Crystallised Augmentations in such form and of such amount as (to the extent of the application of funds will permit) reproduces identically any Guaranteed Crystallised Augmentations being received by such Members at that time and thereupon the liability of the Crystallised Augmentation Fund in respect of such Guaranteed Crystallised Augmentations to the extent that they are so reproduced shall be extinguished. The Trustee shall then* (in so far as is practicable and subject in all cases to Rule 69) apply such surplus *remaining balance (if any) in the Bonus Augmentation Fund* so far as it has not done so, in purchasing policies of term assurance and in making increases in the benefits required to be secured as aforesaid (other than in respect of additional voluntary contributions made under Rule 11A and benefits purchased therefrom) in the following sequence of priorities:—

- (a) in purchasing policies of term assurance providing for the payment of the following capital sums on death in the following circumstances:—
 - (i) in the case of a Member who is in receipt of a pension at the date of discontinuance *Termination Date* and who subsequently dies within five years of retirement, a capital sum equal to the difference between the aggregate pension payable to him (exclusive of any proportion allocated under Rule 34 and calculated as if the option in paragraph (i) of Rule 22 had not been exercised) in respect of the period from his retirement to his death and five times such annual pension (exclusive as aforesaid) but so that if the Member retired through ill-health the capital sum shall be equal to the difference referred to in Rule 22(e);
 - (ii) in the case of a Member who is either a Contributor on the date of winding-up *Termination Date* or had ceased to be a Contributor before that date and who subsequently dies before benefit becomes payable under Rule 23, a capital sum of the appropriate amount specified in Rule 23(2)(e);
 - (iii) in the case of a Member who is either a Contributor on the date of winding-up *Termination Date* or had ceased to be a Contributor before that date and who subsequently dies within five years of benefit becoming payable under Rule 23(2), a capital sum of the amount specified in sub-paragraph (i) of this paragraph;
- (b) subject thereto, in increasing annually after the date of discontinuance of the Scheme *Termination Date* the amount of each of the annuities (whether payable or prospectively payable) pursuant to sub-paragraphs (a)(iv), (a)(vi), (a)(vii), (a)(viii) and sub-paragraphs (b)(i) and (b)(iii) of paragraph (5) by indexation in line with the increase in the cost of living index, calculated by applying (to the extent possible) the provisions of Rule 33A but limited in any event to 5 per cent;
- (c) subject thereto and subject as hereinafter provided, in increasing annually after the date of discontinuance of the Scheme the amount of each of the annuities specified in sub-paragraph (b) of this paragraph by indexation in line with the increase in the cost of living index as defined in paragraph (6) of Rule 33A insofar as it may, in any year, exceed 5 per cent;
- (d) subject thereto, in making such other increases in all or any of the annuities secured for Members who are Contributors at the time of discontinuance *Termination Date* and for whom no transfer is made pursuant to paragraph (4) of this Clause as the Trustee (after consultation with the Actuary) may consider fair to take into account

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the expected difference between future increases in average earnings and prices in the period until the annuity commences; and

- (e) subject thereto, in making such other increases (whether initially or by annual indexation as aforesaid or by both such means) in all or any of the annuities (whether payable or prospectively payable) required to be secured pursuant to paragraphs (5) and (6) of this Clause and the term assurances required to be purchased pursuant to sub-paragraph (a)(ii) of this paragraph as the Trustee (after consultation with the Actuary) may consider fair as between the respective persons for whom the same are to be secured; and
- (f) subject thereto and subject to the approval of the Commissioners of Inland Revenue, in the payment to the Employers (after deduction of any tax due thereon) of the balance (if any) of the Scheme Fund which may remain in such proportions as the Trustee (acting with the advice of the Actuary) shall consider to be just and equitable and in such event the Employers may retain the whole or any part of the balance of the Fund so paid to them

Provided that

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

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

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

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paid to them. The balance of the Guarantor's Fund and the Investment Reserve shall be paid (after deduction of any tax due thereon) to the Guarantor.

INTERPRETATION

Definitions

48.

- (i) In the construction of this Scheme and of the Rules unless the subject or context otherwise requires, the following words and expressions shall have the meaning hereby respectively assigned to them, that is to say—

“the Act” means the Coal Industry Nationalisation Act, 1946,

“the 1949 Act” means the Coal Industry Act, 1949 and

“the 1959 Act” means the National Insurance Act, 1959 and

“the 1965 Act” means the National Insurance Act, 1965 and

“the 1975 Act” means the Social Security Pensions Act, 1975.

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

“Actual Date of Entry” in relation to a Member means the Actual Date of Entry determined in accordance with Rule 3.

“the Actuary” means the *Government Actuary*. Actuary or Actuaries, being a Fellow or fellows of the Institute of Actuaries or of the Faculty of Actuaries in Scotland, for the time being appointed by the Principal Employer with the consent of the Trustee to perform actuarial duties required by the Scheme and/or the Rules.

“Added Contributions” means contributions made to the Scheme by Contributors, in payment for or as a condition of the grant of Added Years for Normal Benefits, and where such Added Years are purchased on behalf of a Contributor the amount, if any, agreed at the time of purchase to be treated as Added Contributions.

“Added Years” means such years of Contributing Service (not being years in Eligible Employment) as under the Rules a Contributor is deemed to have served as a result of having paid Added Contributions or purchased Added Years for Normal Family Benefits.

“Annual Meeting” means the Annual General Meeting of the Contributors duly convened and constituted in accordance with the Scheme and any adjourned holding thereof.

“Appointment Date” means the date with effect from which British Coal Staff Superannuation Scheme Trustees Limited is appointed by the Principal Employer by deed to be sole trustee of the Scheme and the Scheme Fund.

“Approved Insurer” means an insurance company which is authorised by the competent authority of a member State of the European Communities under either Article 6 or Article 27 of Council Directive [79/267/EEC](#).

“Approved National Service” means whole-time service *before the Transfer Date* during a national emergency in—

(a) the Armed Forces of the Crown; or

(b) the merchant navy or mercantile marine; or

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- (c) such of the Women's Services as the Principal Employer may determine; or
- (d) such other service of national importance as the Principal Employer may determine.

"Articles" has the meaning assigned thereto by Clause 1A(4)(b).

"Attendance Bonus Payments" means

- (a) the attendance bonus payments payable *before the Transfer Date* to an Official (as classified in an Agreement dated 26th March 1971 and made between the Principal Employer of the one part and the National Association of Colliery Overmen, Deputies and Shotfirers of the other part as from time to time amended) in respect of service with the Principal Employer on and after 1st April 1985; or
- (b) the additional attendance payments payable *before the Transfer Date* to a member of the British Association of Colliery Management in respect of service with an Employer on and after 1st April 1986; or
- (c) the attendance bonus payments payable *before the Transfer Date* to a member of the weekly paid industrial staff in respect of service with an Employer on and after 1st April 1986; or
- (d) overtime payments *before the Transfer Date* to employees employed by an Employer in a clerical grade or overtime payments *before the Transfer Date* to junior technicians; or
- (e) continuity allowances *before the Transfer Date* paid to employees of Coal Products Limited with effect from 1st January 1989.

"Auditors" means the auditors appointed under Clause 12A.

"Back Service Credit" means such years of Contributing Service not being years in Eligible Employment (other than years in Eligible Employment in respect of which a Back Service Credit is granted under Rule 44AA) or Added Years as under the Rules a Contributor is deemed to have served without contribution (otherwise than under Rule 44) to the Scheme and not being Extra Service Credit granted under Rule 44AD.

"Bonus Augmentations" means benefits details of which are to be set out in Appendix VI paid from the Bonus Augmentation Fund which derive from a recommendation of the Committee under Clause 6A as to the application of a share of surplus determined on a periodic review under Clause 6A on or after the Guarantee Date.

"the Bonus Augmentation Fund" means the Bonus Augmentation Fund referred to in Clause 6A.

The expression **"Benefit"** includes, where the context so requires, the repayment from the Scheme of a Member's contributions thereto with or without interest.

"Child" in relation to a Contributor includes his step-child, a child whom he has legally adopted and a child to whom in the opinion of the Committee he stands in loco parentis.

"C.I.S.W.O." means the Coal Industry Social Welfare Organisation.

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“Closure Date” means the later of:

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

or such later date as the Guarantor shall determine.

“the Committee” subject to the provisions of Clause 1A, means the Committee of Management (within the meaning of the Articles) of the Trustee.

“Contributing Service” means and includes a Member’s Normal Contributing Service and Family Contributing Service Provided that any reference to a period of Contributing Service shall except where otherwise expressly provided be a reference to a period of Normal Contributing Service.

“Contributions Equivalent Premium” has the meaning assigned thereto by section 42(1) of the 1975 Act.

“Contributor” means a Member who is for the time being making contributions from his salary to the Scheme in accordance with the Rules or who (having made such contributions and having attained Normal Retiring Age) has continued and for the time being remains in Eligible Employment *before the Transfer Date*.

“the Contributors’ Committee-members” means the members of the Committee other than the Principal Employer’s Committee-members *or from the Guarantee Date the Guarantor’s Committee-members*.

“Crystallised Augmentations” means those benefits payable from the Bonus Augmentation Fund referred to in Clause 6A(5)(ii).

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

“Dependants” means the spouse and children of a Contributor and any person who, in the opinion of the Committee, was wholly or in part dependent upon the earnings of a Contributor immediately before his ceasing to be a Contributor.

“Eligible Employment” means continuous whole-time service *prior to the Transfer Date* or service as a Permanent Part-Time Employee *prior to the Transfer Date* (a) in the employment of C.I.S.W.O, or (b) in the Principal Employer’s Service or (c) in the employment of a Subsidiary or (d) in employment during which a Contributor is a Contributor by virtue of paragraph (2) or (5) of Rule 1.

“Employer” means, as the case may be, the Principal Employer, C.I.S.W.O, a Subsidiary, any company which is associated in business with the Principal Employer or the employer of a Contributor who is a Contributor by virtue of paragraph (2) *or* (5) of Rule 1 or a corporate body of which such a Contributor is a member or a whole-time director.

“Equivalent Pension Benefit” has the meaning assigned thereto by Rule 20AB.

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“Extraordinary Meeting” means an Extraordinary General Meeting of the Contributors duly convened and constituted in accordance with the Scheme and any adjourned holding thereof.

“Extra Service Credit” means such period or periods of Contributing Service as awarded under Rule 44AD.

“Family Contributing Service” means and includes service in respect of which a Member has contributed to the Scheme for Family Benefits and any further period of time (including any Extra Service Credit, Back Service Credit and Added Years) in respect of which such Member is under the Rules deemed to have so contributed or which is credited or granted to him under the Rules for Family Benefits or as Family Contributing Service.

“Family Contributions” means the contributions paid to the Scheme by Contributors for securing Normal Family Benefits and such proportion of a Transfer Value Payment under Rules 44 and 44AA as may, in the opinion of the Principal Employer, be appropriate having regard to the contributions, if any, paid by the Contributor to the Scheme from which that Transfer Value Payment was received for securing benefits corresponding to Normal Family Benefits but does not include any payments for securing waiver of any qualifying period.

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

“the Former Committee” means the Committee within the meaning of and constituted in accordance with the Scheme as it had effect from time to time before the Appointment Date.

“Full-Time Service” means in relation to any employee of an Employer service in the employment of any Employer which has been designated as a permanent full-time employment contract.

“Further Years of Family Contributing Service” means periods of Family Contributing Service credited to a Contributor under Rule 12 or Rule 14.

“General Certificate of Health” means a certificate granted by the Principal Employer’s Medical Adviser qualifying an individual to become a Member of the Scheme.

“General Meeting” means an Annual Meeting or an Extraordinary Meeting.

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

“Guaranteed Crystallised Augmentations” has the meaning ascribed to the term in Clause 6A(5)(iv).

“the Guaranteed Fund” means the Guaranteed Fund referred to in Clause 6A.

“Guaranteed Liabilities” means the liabilities referred to in sub-paragraphs (a), (b) and (c) of paragraph (5) of Clause 47.

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“Guaranteed Minimum Pension” has the meaning assigned thereto by the 1975 Act.

“Guarantor” means the Secretary of State.

“the Guarantor’s Committee-members” means the members of the Committee appointed by the Guarantor under the Articles of Association of Coal Staff Superannuation Scheme Trustees Limited.

“the Guarantor’s Fund” means the Guarantor’s Fund referred to in Clause 6A.

“Inland Revenue Limits” means the limits on the amounts of benefit that are imposed by the Commissioners of Inland Revenue as a condition of their approval of the Scheme for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988.

“the Investment Reserve” means that notional fund forming part of the Scheme Fund created pursuant to Clause 6(7).

“IWS-SSS” means the retirement benefits scheme known as The Industry-Wide Coal Staff Superannuation Scheme (being a “new scheme” within the meaning of paragraph 3(1) of Schedule 5 to the 1994 Act) to which a Member to whom Rule 47A applies requests that the transfer payment referred to in Rule 47A be made.

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

“Member” means any person whether or not in Eligible Employment and whether or not for the time being a Contributor to the Scheme who is entitled to any benefits thereunder.

“Mineworkers’ Fund” means the Mineworkers’ Pension Fund constituted under the Mineworkers’ Scheme.

“Mineworkers’ Scheme” means the Mineworkers’ Pension Scheme established by a Resolution of the Principal Employer dated 12th October, 1951.

“Months” means the period beginning on the first and ending on the last day of any Calendar Month.

“Normal Contributing Service” means and includes service in respect of which a Member has contributed to the Scheme for Normal Benefits and any further period of time (including any Extra Service Credit, Back Service Credit and Added Years) in respect of which such Member is under the Rules deemed to have so contributed or which is credited or granted to him under the Rules for Normal Benefits or as Normal Contributing Service.

“Normal Contributions” means the contributions paid to the Scheme by Contributors for securing benefits entitled “Normal Benefits” (including such proportion of a Transfer Value Payment under Rule 44 or 44AA as may in the opinion of the Principal Employer be appropriate having regard to the contributions, if any, paid by the Contributor to the scheme from which that Transfer Value Payment was received for securing benefits corresponding to Normal Benefits), but does not include any Added Contributions nor any payments for securing waiver of any qualifying period.

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“Normal Family Benefits” and **“Family Benefits”** means benefits under Rules 29 and 30.

“Normal Retiring Age” means, with effect on or after 20 January 1993 and regardless of the date on which the Member’s service in Eligible Employment terminated, in respect of both a male and female Member the age of 60.

“the Occupational Pensions Board” means the Occupational Pensions Board constituted under section 66 of the Social Security Act 1973.

“Part-Time Factor” means in relation to any week or month as the case may require of Part-Time Service, the fraction of which the numerator is the number of hours of service contracted to be worked by the Permanent Part-Time Employee for such week or month (as the case may be) and the denominator is the number of hours contracted to be worked for the same week or month (as the case may be) by an employee of the same category and grade of service in Full-Time Service.

“Part-Time Service” means in relation to an employee of an Employer, service with any Employer which has been designated as a permanent part-time employment contract and which requires the employee to work not less than an annual average of 12 hours per week.

“Pensionable Salary” has the meaning assigned to it by Rule 36.

“Permanent Part-Time Employee” means an employee in Part-Time Service.

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

“the Principal Employer’s Committee-members” means the members of the Committee appointed by the holders of the Corporation Shares (within the meaning of the Articles) in the Trustee *British Coal Staff Superannuation Scheme Trustees Limited*.

“the Principal Employer’s Medical Adviser” means any qualified Medical Practitioner appointed or approved *before the Guarantee Date* by the Principal Employer *or on or after the Guarantee Date by the Committee*.

“the Principal Employer’s Service” means continuous whole-time service with or as a member of the Principal Employer *before the Closure Date* and “serve” or “served” has a corresponding meaning.

“Qualifying Service” means Normal Contributing Service (excluding Added Years and fractions of years credited by the operation of Rule 35(a)) except that where a Back Service Credit is granted to an entrant under Rule 44 or Rule 44AA on the transfer of his accrued rights from another Superannuation Scheme his pensionable service in that scheme by reference to which the accrued rights are calculated shall be reckoned as Qualifying Service to the extent that it is greater than the Back

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Service Credit granted; and except in respect of Rule 23(2), for the purpose of calculating qualifying periods includes in addition (a) in the case of any person becoming entitled to benefits on or after 1st January, 1952, any period of employment *before the Transfer Date* in Eligible Employment, and (b) in the case of any person becoming entitled to benefits on or after the relevant date, any period of employment *before the Transfer Date* in other activities employment in which may from time to time be determined by the Principal Employer to be Qualifying Service, reduced in either case by the period of any Back Service Credit granted in respect of such employment. For this purpose “the relevant date” shall be the date specified by the Principal Employer in making their determination. If any person having ceased to be a Contributor again becomes a Contributor after 2nd April, 1961, his earlier service and any further period of time as aforesaid shall not be reckoned as Qualifying Service except as provided in Rule 49 or where a Back Service Credit is granted under Rule 44 (b)(i) as it had effect before 6th April, 1978, or Rule 44(c).

“Retirement” means the termination of all regular full-time employment in an Eligible Employment otherwise than by death *or as a result of the arrival of the Transfer Date*.

“the Rules” means the Rules annexed to the Scheme.

“Salary” means *during the period before the Transfer Date* the gross salary or wages, (including Maternity Pay) plus any war or cost-of-living bonus payable and includes the commission payable to any employee remunerated wholly or in part by commission and also any allowance payable under paragraph 8 of the Senior Staff Industrial Injuries Scheme, but except in any case where the Principal Employer otherwise direct does not include any salary, allowance, fee or gratuity in respect of any special or overtime work or duty, or any other bonus or any travelling, subsistence or similar allowance and, if any employee receives a fluctuating salary means the fixed rate per week or per month or per annum determined by the Principal Employer for the purposes of the Scheme as they may deem necessary.

“Satisfactory Evidence of Health” means such evidence of normal health having regard to the age of the Member as may be required *before the Guarantee Date* by the Principal Employer *or on or after the Guarantee Date* by the Committee.

“the Scheme” and **“the Principal Scheme”** mean the British Coal Staff Superannuation Scheme, and unless the subject or the context otherwise requires references to the Scheme or the Principal Scheme shall include references to the Rules.

“the Scheme Fund” means the Scheme Fund referred to in Clause 1A(1).

“the Secretary” means the Secretary of the Scheme for the time being appointed *under Clause 16 of the Scheme* and shall include a temporary or Assistant Secretary and any person appointed (*before the Guarantee Date*) by the Principal Employer or (with the approval (*before the Guarantee Date*) of the Principal Employer) by the Committee to perform any of the duties of the Secretary.

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

“Senior Staff Industrial Injuries Scheme” means the Senior Staff Industrial Injuries Scheme established by a Resolution of the Principal Employer dated 17th September, 1954.

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

“State Retirement Pension” means a pension payable under the provisions of the Social Security Act 1975.

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

“Superannuation Scheme” means any superannuation or pension fund, scheme or arrangement (by whatever name it is called) including a policy of life or endowment insurance held by an employer in trust for his employee.

“Termination Date” has the meaning given to the term in paragraph (4) of Clause 47.

“Transfer Date” means:—

- (a) *in relation to a Contributor (other than an employee of C.I.S.W.O. or of an Employer which is not a Subsidiary of the Principal Employer), such date after the Guarantee Date as immediately precedes the day on which either:—*
 - (i) *the employment of the Contributor is transferred to another employer which is not an Employer; or*
 - (ii) *the Employer of the Contributor ceases to be a subsidiary of the Principal Employer;*
- (b) *in relation to an employee of C.I.S.W.O. or an Employer which is neither a subsidiary of the Principal Employer nor a Trade Union, the First Transfer Date;*
- (c) *in relation to an employee of an Employer which is a Trade Union the later of the date on which the employee exercises an option to join IWS-SSS or the Closure Date.*

“Transfer Value Payment” means a sum which, in the case of a Contributor who within 12 months (or within such longer period as may, in any case, be determined by the Principal Employer or prescribed in any agreement or in any rules made or to be made under the Superannuation (Miscellaneous Provisions) Act, 1948) before entering Eligible Employment was a member of a Superannuation Scheme connected with his former employment, is paid to the Principal Scheme out of that fund or is paid out of that fund to the Contributor and paid by him to the Principal Scheme whether such sum represents only a return (with or without interest) of contributions paid to that fund by the Contributor or is calculated on any other basis.

“the Trustee”, subject to the provisions of Clause 1A(4)(b), has the meaning assigned thereto by Clause 1A(1) *shall from the Appointment Date mean British Coal Staff Superannuation Scheme Trustees Limited,*

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and from the Guarantee Date shall mean Coal Staff Superannuation Scheme Trustees Limited or other the trustee or trustees from time to time of the Scheme as may be appointed under Clause 1C.

The expression “**under the Scheme**” means under the Scheme or under the Rules.

“**Year**” means a period of twelve consecutive months.

“**the 1994 Amendment Date**” means 28th October 1994.

(ii) in the construction of this Scheme and of the Rules unless the subject or context otherwise requires:—

- (a) Where there is a reference to the age of a person he shall be deemed to have attained that age if he survives until midnight on the day preceding the anniversary of his birth on which he will have lived for the number of years specified.
- (b) Words in the singular include the plural and words in the plural include the singular.
- (c) Words importing the masculine gender include the feminine.
- (d) References to any Act, Regulations, Scheme or Rules shall be construed as references to the same as amended or re-enacted from time to time or, as the case may be, to any Act, Regulations, Scheme or Rules repealing or revoking and replacing the same.
- (f) Unless the subject or the context otherwise requires, with effect from the Appointment Date:—
 - (1) references to any power or powers shall include references to duties, authorities, discretions and other functions;
 - (2) references to the exercise of any power or powers shall include references to the exercise and discharge of duties, authorities, discretions and other functions;
 - (3) references to any power or powers exercisable or to be exercised or expressed as exercisable or to be exercised by any person or body of persons or by, under or by virtue of the Scheme, any provision of the Scheme or any other provision shall include references to duties, authorities, discretions and other functions which may be or are to be exercised and discharged by that person or body of persons or by, under or by virtue of the Scheme or that provision or are expressed as such; and
 - (4) references to the delegation of any power or powers or of their exercise shall include references to the delegating, conferring and imposing duties, authorities, discretions and other functions.
- (g) References to a body of persons shall include reference to any body of persons whatsoever, whether corporate or unincorporated.

Marginal Notes and Headings

49. The marginal notes and headings to the Clauses of the Scheme and to the Rules of the Scheme are intended for convenience of reference only and not to be deemed or to be construed as part of the Scheme and the Rules.

RULES OF THE BRITISH COALSTAFF SUPERANNUATION SCHEME

MEMBERSHIP

Eligibility

1.—(1) *Until the Transfer Date* an employee employed by the Principal Employer, C.I.S.W.O. or a Subsidiary shall be eligible for membership of the Scheme who:—

- (i) is employed in Full-Time Service or as a Permanent Part-Time Employee or pursuant to a fixed term contract of employment in a managerial, technical, administrative, clerical or supervisory industrial grade or as a rescue worker; or
- (ii) is employed in Full-Time Service or as a Permanent Part-Time Employee in such other grades as the Principal Employer may from time to time determine either generally or in relation to one or more employees; and
- (iii) has attained age 16 but has not attained age 55; and
- (iv) has been granted a General Certificate of Health; and
- (v) if the appointment is designated “temporary” has completed two years in Eligible Employment.

(2) A Contributor who, on ceasing *before the Transfer Date* to be employed by the Principal Employer, C.I.S.W.O. or a Subsidiary or an employer certified by the Principal Employer (*on or after the Guarantee Date with the consent of the Guarantor*) for the purposes of this paragraph, takes up employment *before the Transfer Date* with an employer so certified, may, with the consent of the Principal Employer (which may be given subject to such conditions as the Principal Employer impose) and of the Employer by whom the Contributor becomes employed, continue to be a Contributor while so employed in a grade eligible for membership of the Scheme by virtue of paragraph (1) of this Rule for so long as such employer continues to be certified as aforesaid. For the purposes of this paragraph a member or whole-time director of a corporate body shall be deemed to be employed by that body in such a grade as is mentioned above Provided that the Principal Employer shall not certify an Employer for the purposes of this paragraph without the approval of the Commissioners of Inland Revenue.

(3) Any whole-time Corporation Member who immediately before his appointment as such *before the Closure Date* was a Member of the Scheme shall be eligible to be a Contributor to the Scheme after his appointment as a Corporation Member.

(4) At the discretion of the Committee and with the approval of the Employer the conditions for eligibility specified in paragraph (1) of this Rule may be waived and in any dispute as to the eligibility for membership of any employee the decision of the Committee shall be final.

- (a) (5) Notwithstanding the foregoing provisions of this Rule *and subject to paragraph (7) of this Rule*, if any Contributors shall *before the Guarantee Date* cease to be eligible for membership in accordance with the provisions of paragraph (1) of this Rule by reason of their Employer ceasing to be a Subsidiary, all such Contributors employed by such Employer may, if such Employer so requests and the Principal Employer consents (which consent may be given subject to such conditions as the Principal Employer imposes), continue to be Contributors (and such Employer may continue to participate as an Employer) for such limited period as may be approved by the Pension Schemes Office of the Inland Revenue.
- (b) *Notwithstanding the foregoing provisions of this Rule arrangements made before the Guarantee Date under sub-paragraph (a) above for the continued participation of Contributors (and the employers of those Contributors) otherwise ceasing to be in Eligible Employment shall subject to the consent of the Committee and the*

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Guarantor continue after the Guarantee Date for such period as will have been approved by the Pension Schemes Office of the Inland Revenue ending on a date not later than the First Transfer Date.

- (c) *Notwithstanding the foregoing provisions of this Rule if any Contributor shall on or after the Guarantee Date cease to be eligible for membership in accordance with the provisions of paragraph (1) of this Rule by reason of his employer ceasing to be a Subsidiary all such Contributors employed by that employer may if the employer so requests and the Committee with the consent of the Guarantor, agrees (which agreement may be given subject to such conditions as the Committee may impose), continue to be Contributors (and their employer may continue to participate as an Employer) for such limited period as may be approved by the Pension Schemes Office of the Inland Revenue ending on a date not later than the First Transfer Date.*

(6) Upon the making by the Principal Employer of arrangements to meet such cost as is mentioned in paragraph (c) of Rule 50 the Committee shall admit to membership of the Scheme such persons for the provision of such benefits as are mentioned in that paragraph.

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

(8) *No person shall become eligible to be a Contributor to the Scheme after the Closure Date.*

Ceasing Normal and Family Contributions and late admission to membership

2.—(1) This Rule shall override any other provisions of the Scheme and Rules which are inconsistent with it.

(2) A Member who, whilst remaining in Eligible Employment, wishes to cease to pay Normal and Family Contributions in accordance with the provisions of Rule 11, shall give written notice to the Secretary. On the expiry of such notice his service in Eligible Employment and Contributing Service shall be deemed for the purposes of the Rules as having terminated in accordance with the provisions of Rule 23.

(3) A person who has not become a Member on first satisfying the requirements of Rule 1 may be admitted as a Member of the Scheme *before the Guarantee Date* in the discretion of the Committee and with the approval of the Employer on such terms and subject to such conditions as the Committee may think fit, including the provision of evidence as to health and the imposition of restrictions on benefits which might become payable on death or early retirement.

Actual Date of Entry

3.—(1) Subject as hereinafter provided, the Actual Date of Entry of a Member shall be the date on which he is admitted as a Member of the Scheme.

(2) The Actual Date of Entry of a Contributor whose earlier service falls to be reckoned as Contributing Service pursuant to Rule 49 shall, subject to Rule 49(f)(ii)(b), be the Actual Date of Entry in respect of his first admission to the Scheme.

(3) The Actual Date of Entry of a Contributor who is a Contributor by virtue of paragraph (2) of Rule 1 shall be the date which would have been the Actual Date of Entry if he had not left the Principal Employer's service or the employment of C.I.S.W.O. or a Subsidiary.

CONTRIBUTIONS

Normal and Family Contributions

- (a) Every Member by virtue of the foregoing provisions of the Rules who is employed in Eligible Employment in a grade eligible for membership of the Scheme or is otherwise eligible to be a Contributor shall from his Actual Date of Entry pay Normal Contributions for securing Normal Benefits at the rate of 5 per cent of Salary (or, if his Actual Date of Entry was before 1st January, 1964, 4 per cent of Salary).
- (b) Every male Contributor shall also pay Family Contributions for securing Family Benefits at the rate of 1 per cent of Salary provided that during the period commenced on 6th April 1993 and terminating on 5th April 2009 every male Contributor shall be relieved of the obligation to pay Family Contributions but for the purpose of calculating Family Benefits he shall be deemed to have paid Family Contributions during such period for so long as he continues to be a Contributor.
- (c) Subject to the proviso to paragraph (b) to this Rule and to the provisions of paragraph (d) of this Rule, contributions payable by a Contributor under paragraphs (a) and (b) of this Rule shall continue to be payable by him:—
 - (i) for a period of 40 years from the date of commencement of contributions under paragraph (a) of this Rule, reduced by the combined period of any Back Service Credit for Normal Benefits and of any Added Years for Normal Benefits and of any Extra Service Credit; or
 - (ii) subject to Rule 24(2), until he ceases to be employed in Eligible Employment in a grade eligible for membership of the Scheme; or
 - (iii) until he ceases to be a Contributor under any other provision of the Rules;whichever is the shortest period.
- (d) A Contributor who by virtue of an award of Extra Service Credit under paragraph (3) of Rule 44AD shall have paid or be deemed to have paid contributions for a period of 40 years or more shall, notwithstanding the provisions of sub-paragraph (c)(i) of this Rule, continue to pay contributions until 5th April 1993.
- (e) Payment of Contributor's contributions for the period between Actual Date of Entry and date of commencement of payment of contributions to be spread forward with compound interest from date of commencement of payments to date five years before Normal Retiring Age, but, when the contributions relate to a period not exceeding two years, the period of spread forward may terminate on the next but one 5th April, or extend for a period not exceeding two years from the date of commencement of contributions, in any of which events no compound interest will be charged.

Additional Voluntary Contributions by Members

11A.—(1) This Rule sets out the terms upon which a Contributor may elect to make additional voluntary contributions to the AVC Scheme in order to secure additional benefits on retirement or payable upon death.

(2) In this Rule the words and expressions defined in Clause 48 shall have the same meanings and in addition

- (a) "AVC Scheme" means the Scheme embodied in this Rule for the provision of certain additional benefits

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- (b) “the Contributor’s Fund” shall mean in relation to a Contributor to the AVC Scheme the amount payable on his retirement, death or ceasing to be in Eligible Employment in respect of his contributions to the AVC Scheme.
- (3) No Contributor may elect in accordance with paragraph (4) of this Rule if he is then subject to notice to terminate his employment.
- (a) (4) Subject to paragraph (3) of this Rule a Contributor may elect to pay additional voluntary contributions at any time prior to Normal Retiring Age.
 - (b) In no circumstances shall any additional voluntary contributions be of such an amount that they would (when aggregated with any Normal or Family Contributions) in any year exceed 15 per cent, or such higher percentage as the Board of Inland Revenue may in a particular case prescribe, of his total remuneration from the Employer for that year.
 - (c) Contributions will be deducted from the earnings becoming payable to a Contributor save that a Contributor may at any time make a lump sum payment to the AVC Scheme by way of a special payment.
 - (d) A Contributor may on giving reasonable notice to the Secretary reduce, increase or terminate with effect on and from 6th April in each year his additional voluntary contributions Provided that subject as hereinafter mentioned a reduction in his additional voluntary contributions must not result in the payment of contributions of less than such amount as the Trustee may from time to time determine and provided further that the Trustee shall have power in its absolute discretion to allow a Contributor to terminate or reduce his additional voluntary contributions in case of financial hardship.
- (5) Additional voluntary contributions shall be payable in such manner (consistent with Inland Revenue approval) as the Contributor and the Employer shall agree and shall be applied by the Trustee to provide additional benefits in respect of the Contributor in such form as the Contributor shall with the consent of the Trustee determine Provided that no part of the additional benefit shall take the form of a cash payment payable to the Member during his lifetime except to the extent as may be permitted by the Board of Inland Revenue. Such additional benefits must be reasonable having regard to (1) the amount of the additional voluntary contributions and (2) the value of the other benefits under the Scheme.
- (6) On the death of a Contributor who has paid additional voluntary contributions pursuant to this Rule while in Eligible Employment the Contributor’s Fund shall be applied by the Trustee pursuant to Rule 28 or Rule 28A, whichever shall be applicable.
- (7) On the retirement of a Contributor the Contributor’s Fund shall unless otherwise agreed between the Contributor and the Trustee be applied by the Trustee in accordance with the wishes of the Contributor expressed to the Trustee in writing Provided that:—
- (a) if the Contributor has not expressed any wishes in writing to the Trustee it shall be entitled to apply the Contributor’s Fund in providing such benefits for the Contributor his Dependants or personal representatives as the Trustee in its absolute discretion shall think appropriate.
 - (b) if the wishes of the Contributor expressed pursuant to this paragraph would result in the benefit for which the Contributor has elected exceeding the Inland Revenue Limits then the surplus of the money in the Contributor’s Fund shall be applied by the Trustee at its discretion in providing such other benefits for the Contributor his Dependants or personal representatives as the Trustee in its absolute discretion shall deem appropriate and if the Trustee has provided the maximum benefits to or in respect of a Contributor which it may provide under the Inland Revenue Limits

then the Contributor's benefits under the Scheme shall be reduced so far as may be necessary.

(8) Any benefit provided pursuant to paragraph (7) of this Rule shall be secured by contracts or policies taken out with an Approved Insurer.

(9) On a Member ceasing to be a Contributor before attaining Normal Retiring Age without becoming entitled to an immediate pension under Rule 22 then—

- (a) the additional voluntary contributions payable by such Member shall cease forthwith;
- (b) if the Contributor to whom this paragraph applies elects to take a refund of his contributions the Contributor's Fund shall be returned to him subject to deduction of tax pursuant to Rule 57;
- (c) if a transfer is made to another retirement benefits fund, scheme or arrangement in respect of part or all of a Contributor's benefit under the Scheme a like transfer shall be made in respect of the Contributor's Fund; and
- (d) subject to the preceding provisions the Contributor's Fund shall be applied in providing benefits in accordance with paragraph (7) of this Rule at Normal Retiring Age or such earlier date on which any benefits under Rule 23 commence to be payable.

Purchase of Further Years of Family Contributing Service

- (a) **12. (1)** A male Contributor shall have the option to purchase Further Years of Family Contributing Service in accordance with the succeeding provisions of this Rule.
 - (b) Subject as hereinafter provided, the option conferred by this paragraph to purchase Further Years of Family Contributing Service other than Added Years for Normal Family Benefits shall be exercisable within six months of marriage or of first becoming a Contributor or before 6th October, 1978, whichever is the latest Provided that if the Contributor has married whilst downgraded and not allowed to continue as a Contributor he may (without prejudice to the time limits available to him under this sub-paragraph) exercise that option within three months of re-entering a grade eligible for membership of the Scheme.
 - (c) The option conferred by this paragraph to purchase Added Years for Normal Family Benefits shall be exercisable in accordance with Rule 15(c) and (d) and, in so far as it is applicable, paragraph (2)(c) of this Rule.
- (2) Subject as hereinafter provided:—
- (c) A Contributor who exercises an option under paragraph (1) of this Rule shall pay for the period (if any) from his Actual Date of Entry to the date of commencement of payments under Rule 11(b) (but excluding any period between those dates which, by virtue of Rule 48(d), does not count as Contributing Service or during which the Contributor was downgraded and not allowed to continue as a Contributor or was not in Eligible Employment) the same proportion of Salary as under Rule 11(b) and such further payments under the succeeding provisions of this Rule as may be appropriate.
 - (ee) A Contributor who has been granted a Back Service Credit for Normal Benefits under Rule 44AA (in the form in which that Rule had effect on 2nd April, 1961), or a Back Service Credit for Normal Benefits under Rule 44, but no Back Service Credit for Normal Family Benefits under those Rules, shall have the option of paying three per cent of the annual rate of Salary paid to him at his Actual Date of Entry for the whole or any part of the period of such Back Service Credit, and he shall receive a

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Back Service Credit for Normal Family Benefits corresponding to the length of time by reference to which payment is so made. This option shall be exercisable within six months of transfer or first appointment to Eligible Employment or of exercising the option under paragraph (1) of this Rule for Normal Family Benefits or by 31st December, 1956, whichever is the later.

- (f) A Contributor who has opted under paragraph (1) hereof for Added Years for Normal Family Benefits shall pay therefor, and in addition to any other contributions payable by him, the lump sum payment per £100 of Salary at the date of exercise of the option or the annual contribution (payable by instalments) per £100 of Salary at such date necessary to purchase one Added Year for Normal Family Benefits as are set out in Appendices I and II.
- (g)
 - (i) Contributions under paragraphs (2)(c) and (ee) of this Rule shall (subject as therein provided) be paid as a single lump sum within 28 days of notification of the amount payable or, at the option of the Contributor, be spread forward with compound interest over the period from the date of exercise of the option under paragraph (1) of this Rule by virtue of which they become payable to a date five years before Normal Retiring Age Provided that if a Contributor lodges a request with the Secretary within 30 days of the date of his being notified of the cost of the contributions for Normal Family Benefits, the Principal Employer may in their discretion allow all or part of the spread-forward contributions payable pursuant to this paragraph to accumulate as a loan in accordance with Rule 53AA.
 - (ii) Contributions under paragraph (2)(f) of this Rule shall be payable as a single lump sum within 28 days of notification of the amount payable or, at the option of the Contributor, be spread with compound interest over the period from the date of the exercise of the option under paragraph (1) of this Rule by virtue of which they become payable to Normal Retiring Age.
 - (iii) A male Contributor who has exercised prior to 17 May 1990 an option to purchase Further Years of Family Contributing Service under paragraph (1) of this Rule may on or before Normal Retiring Age elect either to have the number of Added Years credited reduced to such period as may, in the opinion of the Actuary, be actuarially equivalent to the contributions for Added Years already paid, or to have the outstanding contributions, which would otherwise have been payable until his attainment of Normal Retiring Age deducted from any lump sum or pension payable to him.
- (h) Notwithstanding the provisions of Rule 19, in calculating spread-forward contributions in respect of payments under paragraph (2)(ee) of this Rule, no interest shall be added in respect of the period before Actual Date of Entry.
- (m) If a Contributor's wife dies, or the marriage is dissolved or annulled, and all Children attain the age of 18 years or die, no further contributions shall be payable under any of the foregoing provisions of this Rule.
- (n) If a Contributor satisfies the Committee that he is living separate and apart from his wife pursuant to a decree for judicial separation or a deed of separation, and that he has no Children below the age of 18 years living and he requests that the provisions of this paragraph shall apply to him, then, with effect from such date as the Committee shall determine, no further contributions shall be payable under any of the foregoing provisions of this Rule Provided that if a Contributor who has ceased to pay contributions by virtue of the preceding provisions of this paragraph resumes cohabitation with his wife he shall thereupon recommence payment of such contributions as he would pay but for the operation of this paragraph and shall also

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pay in such manner as the Committee may decide a sum representing the amount of the contributions which the Contributor would have paid but for the operation of this paragraph whilst living separate and apart from his wife, together with interest thereon to the date of resumption of cohabitation.

- (a) (3) Where contributions have ceased to be payable pursuant to paragraph (2)(m) of this Rule or of the previous Rule 12, or where they have ceased to be payable under paragraph (2)(n) of this Rule or of the previous Rule 12 and the wife referred to in that provision has died or the Contributor's marriage to her has been dissolved or annulled, and all Children have attained the age of 18 years or died, and the Contributor subsequently remarries whilst still paying Normal Contributions under Rule 11(a), he may, at his option *to be exercised before the Transfer Date*:—
- (i) if contributions so ceased before the date of commencement of contributions under Rule 11(b), pay contributions under paragraph (2)(a) or (b) of the previous Rule 12 for the period between the dates of such termination and such commencement (but excluding any period between those dates which, by virtue of Rule 48(d), does not count as Contributing Service or during which he was downgraded and not allowed to continue as a Contributor or was not in Eligible Employment); and
 - (ii) pay a sum representing the value at the date of termination under paragraph (2)(m) or as the case may be (2)(n) of the future spread-forward contributions which would have become payable under paragraphs (2)(c), (ee) and (f) of this Rule with interest to date of the exercise of such option; to be spread-forward with compound interest over the period from the date of recommencing payments to a date five years before Normal Retiring Age, or, if this date has passed, to be spread-forward with compound interest to Normal Retiring Age.
- (b) Where a Contributor remarries in the circumstances specified in paragraph (3)(a) hereof, and that wife dies or the marriage is dissolved or annulled, and all Children attain the age of 18 years or die, no further contributions shall be payable under any of the foregoing provisions but if he subsequently remarries whilst still paying Normal Contributions under Rule 11(a) he may, at his option (*to be exercised before the Transfer Date*), pay in the manner determined by the Committee such sum in respect of Family Benefits as the Actuary considers reasonable having regard to the contributions already paid by the Contributor under this Rule.
- (a) (4) Subject as hereinafter provided a Contributor who exercises or has exercised an option under paragraph (1) of this Rule or of the previous Rule 12 shall be credited:—
- (i) with Family Contributing Service for the period if any from his Actual Date of Entry to the date of commencement of payments under Rule 11(b) (but excluding any period between those dates which, by virtue of Rule 48(d), does not count as Contributing Service or during which the Contributor was downgraded and not allowed to continue as a Contributor or was not in Eligible Employment);
 - (ii) if he pays or has paid contributions in accordance with paragraph (2)(ee) of this Rule or the previous Rule 12, with Family Contributing Service equal in length to the Back Service Credit referred to in whichever of those provisions is applicable; and
 - (iv) if he exercises or has exercised the option under paragraph (1) of this Rule or of the previous Rule 12 for Added Years for Normal Family Benefits, with a period of Family Contributing Service consisting of the Added Years for which he has so opted.

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- (b) If after 5th April, 1978 a Contributor:—
- (i) ceases to pay contributions under this Rule by virtue of paragraph (2)(m) thereof and does not for whatever reason make any subsequent payment under paragraph (3) of this Rule; or
 - (ii) ceases to pay contributions under this Rule by virtue of paragraph (2)(n) thereof and does not for whatever reason make any subsequent payment under that provision or under paragraph (3)(a) of this Rule; or
 - (iii) ceases to pay contributions under this Rule by virtue of paragraph (3)(b) thereof and does not for whatever reason make any subsequent payment under that provision; or
 - (iv) leaves Eligible Employment and subsequently satisfies the requirements of Rule 27(1)(a) or 27(1)(b) but does not for whatever reason make any payment under Rule 27(3)(c) or 27(4); or
 - (v) leaves Eligible Employment in circumstances giving rise to entitlement to a payment of benefits under Rule 23(2), 23(2A), 23(3)(a) as it had effect before 6th April, 1980 or Rule 23(4) and if applicable Rule 32 and subsequently re-enters Eligible Employment, again becomes a Contributor and has part or all of his earlier service again reckoned as Contributing Service, but does not for whatever reason make any payment under Rule 49(d) (iii) or under that provision as applied by Rule 49(f)(i)(b) or (f)(ii)(c) or under Rule 49(dd);

then without prejudice to the provisions of Rule 15(i), proviso (iii) to Rule 32 and Rule 49 the period of Family Contributing Service credited to him under sub-paragraph (a) of this paragraph shall be reduced by such period as the Actuary considers reasonable having regard to the effect (if any) of those provisions and to the amount of the contributions under this Rule or under the previous Rule 12 remaining unpaid at the date when he so ceases to pay contributions or leaves Eligible Employment as the case may be.

- (c) If the period of Family Contributing Service credited to a Contributor is reduced under sub-paragraph (b) of this paragraph, the Committee may in their discretion in the case of any reduction under sub-paragraph (b)(ii) and shall in any other case cancel such reduction on payment by the Contributor or his widow of such sum as the Committee acting on the advice of the Actuary may require.

(5) Where a Contributor has exercised any option under Rule 12(1) as it had effect before 6th April, 1978:—

- (a) he shall from that date pay contributions in accordance with whichever of the provisions of paragraphs (2) and (3) of this Rule as shall be applicable as if he exercised that option under paragraph (1) of the Rule; and
- (b) any reference in paragraphs (3) and (4) of this Rule to “the previous Rule 12” shall take effect in relation to him as a reference to Rule 12 as it had effect before that date.

13. The Committee may, at their discretion, require Satisfactory Evidence of Health of Contributor before permitting the exercise of an option under Rule 12(1) or Rule 14 or under Rule 12(1)(c) as it had effect before 6th April, 1978.

Purchase of Family Contributing Service by Female Contributors

14.—(1) Subject to the provisions of paragraph (4) of this Rule, a female Contributor may opt to contribute to the Scheme for Family Benefits in accordance with the succeeding provisions of this Rule.

- (2) Any such option shall be exercisable:—

- (a) within six months of becoming a Contributor;
- (b) within six months of marriage; or
- (c) within six months after her husband dies or becomes incapable of self-support and financially dependent on her, or after she becomes responsible for the custody or maintenance of a Child or Children

whichever is the latest.

(3) Where a Contributor exercises an option under paragraph (1) of this Rule:—

- (a) She shall, subject to the provisions of paragraph (4) of this Rule, pay Family Contributions for securing Family Benefits at the rate of 1 per cent. of Salary from the date of exercise of the option;
- (b) Rule 11(c) and (e) shall apply to her subject as hereinafter provided;
- (c) She shall have the same options to purchase Further Years of Family Contributing Service under Rule 12(1) as a male Contributor, except that the option under Rule 12(1)(b) shall be exercisable in accordance with paragraph (1) of this Rule instead of Rule 12(1)(b) and upon the exercise of any such option Rule 12(2), (3) and (4) shall apply to her subject as hereinafter provided and subject to the following modifications that is in Rule 12(2)(c) and 12(4)(a)(i) the date of exercise of the option shall be substituted for the Actual Date of Entry.

(4) During the period commenced on 6th April 1993 and terminating on 5th April 2009, a female Contributor shall be relieved of paying Family Contributions under paragraph (3) of this Rule but for the purpose of calculating Family Benefits she shall be deemed to have exercised the option under paragraph (2) of this Rule and to have paid Family Contributions during such period for so long as she continues to be a Contributor.

(4A) In relation to a Contributor who exercised an option under Rule 14(a) as it had effect at any time before 6th April, 1978 (and for the avoidance of any doubt) Rule 12(2) and (3) as they had effect immediately before 6th April, 1978 shall be deemed to have been modified to provide for no contributions to be paid thereunder on and after the Transfer Date.

(5) Where a Contributor exercises an option under paragraph (1) of this Rule, Rules 29 to 32 inclusive shall apply to her mutatis mutandis.

(6) A Contributor who marries or remarries after exercising an option under paragraph (1) of this Rule may stop paying contributions for Family Benefits at any time after marrying or remarrying and, if she does so, Rules 29 to 32 shall not thereafter apply on her death.

Purchase of Added Years by Contributors

- (a) Contributors to have option (exercisable as hereinafter provided) of purchasing Added Years for Normal Benefits on paying a single contribution or Added Contributions spread forward with compound interest over period from date of exercise of option to Normal Retiring Age of an amount sufficient to cover actuarially computed whole cost of providing added benefits.
- (b) The Committee may, at their discretion, require Satisfactory Evidence of Health of a Contributor before permitting option to be exercised.
- (c) In the case of a Contributor whose Actual Date of Entry is on or after 2nd December, 1960, the exercise of the option conferred by paragraph (a) hereof, and of the option for Added Years for Normal Family Benefits conferred by Rule 12(1) or Rule 14(a) or under Rule 12(1) as it had effect before 6th April, 1978, shall be subject to the approval of the Committee. In any other case such approval shall be required only where the Committee require Satisfactory Evidence of Health pursuant to paragraph (b) hereof.

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- (d) Number of Added Years for Normal Benefits or Normal Family Benefits purchased not to bring total Contributing Service by Normal Retiring Age up to more than 40 years.
- (e) Contributions to cease at Normal Retiring Age or on ceasing to be a Contributor or on cessation of contributions on downgrading under Rule 24 whichever is the earliest.
- (g) Tables currently in use showing respectively the lump payment per £100 of Salary at date of exercising option and the annual contribution per £100 of such Salary necessary to purchase one Added Year for Normal Benefits are set out in Appendices I and II. The rates are, however, subject to such amendment from time to time as the Committee, on the advice of the Actuary, deem requisite as regards options exercised after the adoption of the amended Tables.
- (h) Added Years whether for Normal Benefits or Normal Family Benefits not to count for qualifying periods for Normal Benefits or Normal Family Benefits (subject to Rule 22 (c)).
- (i) In the event that a Contributor ceases to pay contributions for Added Years under this Rule or Rule 12(1) the number of Added Years credited shall be reduced by the proportion that the value of the outstanding contributions which would otherwise have been payable until his attainment of Normal Retiring Age, as defined in the Scheme at the time he elected to purchase Added Years, bears to the sum of the value of the contributions for Added Years already paid and the value of the outstanding contributions.
- (j) A male Contributor who has elected to purchase Added Years under this Rule prior to 17th May, 1990, may on or before Normal Retiring Age exercise one of the following options:—
 - (i) to have the number of Added Years credited reduced by the proportion that the value of the outstanding contributions which would otherwise have been payable until his attainment of Normal Retiring Age, as defined in the Scheme at the time he elected to purchase Added Years, bears to the sum of the value of the contributions for Added Years already paid and the value of the outstanding contributions; or
 - (ii) if either he was a Member of the Scheme on 27th July 1989 or the exercise of the option conferred by this sub-paragraph would not result in the limit on contributions imposed by paragraph 21 of Schedule 6 to the Finance Act 1989 being exceeded, to have the value of the outstanding contributions which would otherwise have been payable until his attainment of Normal Retiring Age as defined in the Scheme at the time he elected to purchase Added Years under this Rule deducted from any lump sum payable to him; or
 - (iii) to pay increased contributions as advised by the Actuary until attaining Normal Retiring Age.

Contributions on Attendance Bonus Payments

15A.—(1) This Rule applies to all Contributors who are Officials and who make an election pursuant to the provisions of this Rule.

(3) A Contributor upon becoming an Official after 1 April, 1985 may elect in writing to pay contributions on his Attendance Bonus Payments and, if no election shall have been made, the right to elect under this Rule shall cease.

(4) Contributions on Attendance Bonus Payments shall be payable at the same rates as Normal Contributions and Family Contributions are payable under Rule 11(a) and Rule 11(b) and shall be deducted from Attendance Bonus Payments payable to the Contributor.

(5) An Official who has elected to pay contributions on his Attendance Bonus Payments under this Rule shall be entitled to receive on retirement whether before, on or after attaining Normal Retiring Age in addition to any other entitlement pursuant to the Rules a pension for life of one-sixtieth of his Additional Pensionable Salary for each year (or in the case of an incomplete year a proportionate part thereof but without fractions of a year credited by the operation of Rule 35(a)) during which contributions have been paid or would have been paid if Attendance Bonus Payments had been received pursuant to this Rule plus the option of electing to commute within Inland Revenue Limits such part of the pension as the Official may request for a lump sum payment on the basis of £9 for each £1 of pension commuted.

(6) The widow of an Official who has elected to pay contributions pursuant to this Rule and who dies after retirement shall be entitled in addition to the pension payable under Rule 29(1)(a) to a pension equal to two-thirds of the pension payable under paragraph (5) of this Rule after being reduced to take account of any commutation under that paragraph.

(7) If an Official who has elected to pay contributions on his Attendance Bonus Payments under this Rule shall die before retirement *and before the Transfer Date* a payment shall be made to his estate in addition to the payment provided by Rule 28 of an amount equal to four times the amount of his Additional Pensionable Salary.

(8) If an Official who has elected to pay contributions on his Attendance Bonus Payments under this Rule shall cease to be a Contributor in circumstances that he shall become entitled to a refund of contributions under Rule 23(4) he shall be entitled subject to Rule 57 to receive in addition a refund of the contributions paid by him under this Rule with compound interest.

(9) The widow of an Official who shall die in service shall be entitled, in addition to the pension payable under Rule 29(1)(b), to a pension equal to two-thirds of the pension payable under paragraph (5) of this Rule.

(10) If an Official leaves service before Normal Retiring Age he shall be entitled to receive in addition to the benefits payable under Rule 23 a pension for life of one-sixtieth of his Additional Pensionable Salary for each year (or in the case of an incomplete year a proportionate part thereof but without fractions of a year credited by the operation of Rule 35(a)) during which contributions have been paid or would have been paid if Attendance Bonus Payments had been received, plus the option of electing to commute within Inland Revenue Limits such part of the pension as the Official may request for a lump sum payment on the basis of £9 for each £1 of pension commuted. If after leaving service before Normal Retiring Age the Official dies before the pension becomes payable a payment shall be made to his estate pursuant to Rule 23(2)(e).

(11) If an Official shall fail to pay contributions under this Rule due to absence for which leave has not been granted by the Principal Employer, such period of absence shall be deducted in calculating the period during which contributions have been paid or would have been paid if Attendance Bonus Payments had been received for the purpose of determining the amount of pension under paragraphs (5) and (10) of this Rule.

(12) For the purposes of this Rule—

(a) “Additional Pensionable Salary” means, in relation to an Official who has elected to pay contributions pursuant to this Rule the greater of

(i) the average annual rate of his Adjusted Attendance Bonus Payments over the last three years of his service or if his service is less than three years such lesser service or

(ii) the average annual rate of his Adjusted Attendance Bonus Payments over the whole period during which such contributions were payable and for the purposes of this definition “Adjusted Attendance Bonus Payments” for any year shall be the actual Attendance Bonus Payments of the Contributor for that

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year increased by the percentage ratio (calculated to the nearest one place of decimals) by which the cost of living index (as defined in Rule 33A(6)) last published before the end of that year was exceeded by that index last published before the end of his service.

- (b) “Official” means an Official as classified in an Agreement dated 26 March, 1971, and made between the Principal Employer of the one part and the National Association of Colliery Overmen, Deputies and Shotfirers of the other part as from time to time amended.

15AA.—(1) This Rule applies to any Contributor who is either:—

- (a) a member of the British Association of Colliery Management; or
- (b) a member of the weekly paid industrial staff and who makes an election pursuant to the provisions of this Rule. Any such Contributor who makes such an election shall for the purposes of this Rule be defined as an “Electing Contributor”.

(3) A Contributor upon satisfying either of the requirements specified in paragraph (1) of this Rule after 1 April 1986 may elect to pay contributions on his Attendance Bonus Payments and if no election shall have been made, the right to elect under this Rule shall cease.

(4) The provisions of paragraphs (4) to (12) of Rule 15A shall apply to this Rule with the substitution of the words “Electing Contributor” for the word “Official” wherever the latter appears therein.

15AB.—(1) This Rule applies to any Contributor who is employed by an Employer in a clerical grade or as a junior technician and who makes an election pursuant to the provisions of this Rule. Any such Contributor who makes such an election shall, for the purposes of this Rule, be defined as an “Electing Contributor”.

(3) A Contributor, upon satisfying the requirement specified in paragraph (1) of this Rule after 1st April 1987 may elect in writing to pay contributions on his Attendance Bonus Payments and if no election in writing shall have been made, the right to elect under this Rule shall cease.

(4) The provisions of paragraphs (4) to (12) of Rule 15A shall apply to this Rule with the substitution of the words “Electing Contributor” for the word “Official” wherever the latter appears therein.

15AC.—(1) This Rule applies to any Contributor who, with effect from 1st January 1989, shall be employed by Coal Products Limited and shall be paid a continuity allowance.

(2) A Contributor who satisfies the requirement specified in paragraph (1) of this Rule shall be deemed to have elected to pay contributions on his Attendance Bonus Payments and shall, for the purposes of this Rule, be defined as an “Electing Contributor”.

(3) The provisions of paragraphs (4) to (12) of Rule 15A (but excluding sub-paragraph (b) of paragraph (12)) shall apply to this Rule with the substitution of the words “Electing Contributor” for the word “Official” wherever the latter occurs.

15AD. The Committee, with the approval of the Principal Employer may from time to time at their discretion extend to Contributors a further option or options to pay contributions on their future Attendance Bonus Payments in accordance with the provisions of Rule 15A, 15AA and 15AB.

CONTRIBUTIONS—GENERAL

Deductions of Contributions from Salary

16. The Employer shall be entitled to deduct from any payment of Salary made to a Contributor all or any part of the contributions due from him under the Scheme. In assessing the contributions due in respect of any year ending with the last pay day before 6th April, any half or greater fraction of a penny shall be treated as a penny and any smaller fraction of a penny shall be ignored.

Excess Contributions

16AA. Where contributions have been paid by a Member under these Rules and by reason of an amendment thereof or by the exercise of any discretion by the Principal Employer or the Committee such contributions or a part of them exceed the amount required to have been paid thereunder any future contributions becoming due from such Member may be adjusted in such manner as the Principal Employer may determine to take account of such excess. *The amount of any such excess which has not been taken account of when the Transfer Date arrives shall be dealt with by the Principal Employer and the Committee with the consent of the Guarantor in such manner as they determine to be appropriate.*

Final Contributions by Contributors

- (a) Notwithstanding Rule 11(c), if the period of service used for calculating Pensionable Salary (in this Rule called “the Selected Period”) shall include any period of service subsequent to years in which Normal Contributions have been or are deemed to have been paid, the Contributor shall pay final contributions as provided in sub-paragraphs (b) and (c) of this Rule.
- (b) There shall be determined the period of service (in this Rule called “the Datum Period”) which would have been used for calculating Pensionable Salary under Rule 36 if the Contributor’s service had ended at the date when Normal Contributions ceased to be payable by him.
- (c) In respect of each year or part of a year beginning with the year or part of a year immediately following the Datum Period and ending not later than the end of the Selected Period the Contributor shall pay final contributions at the rates specified in Rule 11(a) and in the case of a male Contributor Rule 11(b) but subject to the proviso to that Rule on the excess (if any) of his Salary for each year or part of a year over his Salary for the corresponding period one, three, four or five years earlier according to the length of the Selected Period; provided that if the Salary for any such year or part of a year is less than the Salary for the corresponding period one, three, four or five years earlier, as the case may be, such deficiency shall go in reduction of any subsequent excess upon which, but for this proviso, final contributions would have been payable under this Rule.
- (d) For the purposes of this Rule, Rule 36 shall be assumed to be in the form in which it had effect immediately before 8th May, 1978.

Waiver of qualifying periods

18. Any period required under the Rules as a qualification for participation in a specified benefit (or any remaining part of such period) may, subject to such conditions as the Principal Employer may impose, be waived if the Contributor agrees to pay additional contributions, actuarially computed to be fair and reasonable, in consideration of such waiver over such period

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(terminating not later than the date five years prior to Normal Retiring Age) as the Committee shall decide. No further contribution shall, however, be payable after cessation of Contributing Service.

Payment of spread forward contributions

19. When it is provided that contributions shall be spread forward with compound interest over a certain period, then the future contributions shall be determined first, by ascertaining the amount of the past contributions with compound interest thereon, calculated from the dates on which they would have fallen due up to the date as from which the future contributions in lieu thereof will commence; and secondly, by ascertaining the level annual payment including principal and interest required to repay over such period the sum first ascertained with compound interest on the amount outstanding from time to time. The level annual payments so arrived at to be deemed to be additional contributions of the appropriate class and to be so treated for the purposes of the Rules.

BENEFITS

20AB.—(1) Subject to paragraph (6) of this Rule but notwithstanding any other provision of any of the Rules

- (a) there shall be excluded from the operation of any provision therein for the reduction, surrender, commutation or assignment of a pension (including any provision for the making of an election which would cause a pension to be paid at a lower rate) such part of any pension payable under the Rules to a Member in respect of any period after the date mentioned in paragraph (5) hereof as is equal to Equivalent Pension Benefit;
- (b) such part as aforesaid shall not be capable of being terminated or suspended except for a cause prescribed by regulations made under section 8(1)(c) of the 1959 Act;
- (c) if a Member ceases to be a Contributor otherwise than in consequence of death or retirement on pension, and if the Employer so requests and the Committee approve, Equivalent Pension Benefit shall be payable to him and the provisions of paragraphs (a) and (b) hereof shall apply thereto. In the event of liability for Equivalent Pension Benefit being assumed by the Committee in accordance with this Rule the Committee shall issue such certificates or other documents as evidence of their liability as shall be required in accordance with the provisions of the 1959 Act or any other enactment or regulations pursuant thereto. Any lump sum or refund of contributions and interest due to the Member under the Rules shall be reduced to meet part of the cost of Equivalent Pension Benefit by such amount as the Committee may determine Provided that the amount of such reduction shall not exceed one-half of the payment in lieu of contributions under the 1959 Act that would have been made if such payment had fallen to be made in respect of the Member at the date when he ceased to be a Contributor.

(2) Equivalent Pension Benefit means a pension for life, commencing on the date mentioned in paragraph (5) hereof, of an amount which would be equal to the minimum rate of equivalent pension benefits, applicable in respect of any period of service (before attaining the age of 60), under the provisions of Part II of the 1959 Act; and for this purpose “service” means Contributing Service before 6th April, 1975, (except that in respect of a Contributor at 6th April, 1975, it may include a period of service whilst he was a Contributor but for which Normal Contributions were not paid) but to the extent only that it is service in a non-participating employment within the meaning of the 1959 Act and is not service ending before Normal Retiring Age in respect of which (i) a payment in lieu of contributions under the 1959

Act has been made or (ii) the Member is assured for the purposes of the 1959 Act of equivalent pension benefits payable from some Superannuation Scheme other than the Principal Scheme.

(3) Where, during any period subsequent to the date mentioned in paragraph (5) hereof, a pension to which a Contributor is entitled under the succeeding Rules in respect of service within the meaning of paragraph (2) hereof is payable at a rate less than the rate of Equivalent Pension Benefit, then except in so far as the reduced rate is a consequence of a cause prescribed by regulations made under section 8(1)(c) of the 1959 Act but subject to paragraph (6) of this Rule, there shall be paid to him during that period, in addition to the first-mentioned pension, a supplementary pension at a rate equal to the difference between the rate of the first-mentioned pension and the rate of Equivalent Pension Benefit, and the provisions of sub-paragraphs (a) and (b) of paragraph (1) hereof shall apply to such supplementary pension.

(4) Where, pursuant to any of the succeeding Rules, a pension (herein referred to as “the basic pension”) becomes payable to a Member before the date mentioned in paragraph (5) hereof, he shall be paid a pension (herein referred to as “the equivalency pension”) at the rate of Equivalent Pension Benefit from the date mentioned in paragraph (5) hereof; the provisions of sub-paragraphs (a) and (b) of paragraph (1) hereof shall apply to the equivalency pension, and the amount of the basic pension (if any) shall be reduced by the amount of the equivalency pension with effect from the date on which the equivalency pension is payable.

(5) The date hereinbefore referred to is, in the case of the Retirement of a Member on or before Normal Retiring Age, the date on which the Member attains the age of 60, and in any other case, the date of Retirement.

(6) If on the date mentioned in paragraph (5) of this Rule a Member becomes or became entitled to a pension in respect of service within the meaning of paragraph (2) of this Rule and the amount of the pension does not exceed the amount of Equivalent Pension Benefit as increased pursuant to paragraph (7) or paragraph (8) of this Rule, then, if the Member so elects at any time by notice in writing to the Secretary, he shall be paid a lump sum equivalent, according to tables provided by the Actuary, as at the date of payment to the amount of the pension to the extent to which it has not been paid already, and the right of the Member to the pension shall be extinguished as from the date of payment.

(7) Equivalent Pension Benefit which

(a) was in course of payment on 21st June 1990; or

(b) became or becomes payable on or after 21st June 1990 but prior to 1st January 1992

shall be increased by 172.4 per cent. with effect on and from 1st January 1992 and on 1st January in each subsequent year shall be further increased in accordance with the provisions of Rule 33A.

(8) Equivalent Pension Benefit which becomes payable on or after 1st January 1992 shall be increased in respect of the period ended 31st December 1991 by 172.4 per cent and with effect on and from 1st January 1992 and on 1st January in each subsequent year shall be subject to such further increases as provided by the provisions of Rule 33A.

20AC.—(1) This Rule shall apply if any employment becomes contracted-out employment by reference to the Scheme and it shall then override any other provisions of the Scheme and the Rules which are inconsistent with it.

(2) The words and expressions used in this Rule shall have the same meanings as in the 1975 Act.

(3) If an earner has a guaranteed minimum (exclusive of any pension attributable to additional voluntary contributions paid pursuant to Rule 11A) in relation to the pension provided for him or her under the Scheme in accordance with section 35 of the 1975 Act:—

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- (a) the weekly rate of the pension from age 65 for a man and 60 for a woman shall not be less than the guaranteed minimum;
- (b) if he is a man and dies at any time leaving a widow, the weekly rate of the pension provided for her under the Scheme shall not be less than half that earner's guaranteed minimum; and
- (c) if she is a woman and dies on or after 6 April 1989 leaving a widower, the weekly rate of the pension provided for him under the Scheme shall not be less than half of that part of the earner's guaranteed minimum which is attributable to earnings for the tax year 1988/89 and subsequent tax years and shall be payable in the circumstances and for the period prescribed in Regulations 33B and 33C of the Occupational Pension Schemes (Contracting-Out) Regulations 1984.

(3A) The guaranteed minimum pensions referred to in paragraph (3) shall, in so far as they are attributable to earnings in the tax years from (and including) 1988/89, be increased in accordance with section 37A of the 1975 Act and to the extent of any orders made thereunder.

(4) Commencement of an earner's Guaranteed Minimum Pension shall be postponed for any period during which he continues in employment to which the Scheme relates. Provided that his consent shall be required for any such postponement after the expiration of 5 years from the date when he attains pensionable age.

(5) Where the commencement of an earner's Guaranteed Minimum Pension is postponed for any period, his Guaranteed Minimum Pension shall be increased to the extent, if any, specified in section 35(6), (6A) and (6B) of the 1975 Act as amended from time to time.

- (a) (6) The Guaranteed Minimum Pension payable by virtue of this Rule shall not be capable of being terminated or suspended during the lifetime of the person to whom it is payable except in such circumstances as are from time to time prescribed by Regulations made under section 39(4)(b) of the 1975 Act, and the liability of the Scheme to pay any such Guaranteed Minimum Pension shall not during that lifetime be capable of being terminated or suspended except in such circumstances as are for the time being permitted or otherwise provided for by the 1975 Act or Regulations made thereunder.
- (b) Section 48 of the 1975 Act shall apply in relation to any Guaranteed Minimum Pension payable by virtue of this Rule.

(7) If:—

- (a) an earner becomes entitled to receive a lump sum benefit under the succeeding provisions of the Rules on or after the age of 65 for a man or 60 for a woman; and
- (b) at the date when he becomes entitled to receive that lump sum benefit any Guaranteed Minimum Pension payable to him by virtue of this Rule is greater than the basic pension payable to him;

the amount of that lump sum benefit (including the amount of any supplement payable with it under Rule 33A(5)(b)) shall be reduced by the actuarial value of a pension payable to the earner equal in amount to the difference between the two pensions mentioned in sub-paragraph (b) of this paragraph.

(8) If:—

- (a) an earner becomes entitled to receive a lump sum benefit under the succeeding provisions of the Rules before the age of 65 for a man or 60 for a woman; and
- (b) at the date when he becomes entitled to receive that lump sum benefit any Guaranteed Minimum Pension which has then accrued in relation to him by virtue of paragraph (3)(a) of this Rule is greater than the basic pension payable to him at that date;

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the basic pension payable to the earner shall on that date be increased to the pension (hereinafter called “the enhanced pension”) which would in the opinion of the Actuary produce, when and if the earner attains the age of 65 for a man or 60 for a woman, a pension (after deduction of any pension or part of a pension which is or comprises Equivalent Pension Benefit) equal to any Guaranteed Minimum Pension payable to the earner at that age by virtue of this Rule, and the amount of that lump sum benefit (including the amount of any supplement payable with it under Rule 33A(5)(b)) shall be reduced by the actuarial value of a pension payable to the earner equal in amount to the difference between that basic pension and that enhanced pension.

(9) For the purposes of paragraphs (7) and (8) of this Rule:—

- (a) the “basic pension” payable to an earner at any date means the pension payable to him at that date under the succeeding provisions of the Rules, after deduction of any pension or part of a pension which is or comprises Equivalent Pension Benefit;
- (b) a Guaranteed Minimum Pension which has accrued to an earner at any date means that earner’s prospective Guaranteed Minimum Pension at that date calculated without regard to any increases in earnings factors subsequently made or to be made in accordance with sections 21 and 35(5) of the 1975 Act;
- (c) no refund of contributions or interest payable on any such refund shall be treated as a lump sum benefit; and
- (d) the operation of Rule 58 on any pension or lump sum shall be disregarded.

(10) An employer shall be bound to elect under section 42(2) of the 1975 Act to pay and also to pay a Contributions Equivalent Premium with a view to extinguishing accrued rights to Guaranteed Minimum Pensions or a Guaranteed Minimum Pension in any case where the 1975 Act and any Regulations for the time being in force under it so permit Provided that:

- (a) the employer may but shall not be bound so to do:—
 - (i) where the amount of the Contributions Equivalent Premium would not exceed £5; or
 - (ii) in any case for the time being prescribed for the purposes of section 43(4) of the 1975 Act; but
- (b) in respect of any of the cases mentioned in proviso (a)(ii) above the employer shall not discriminate between different earners falling within the same class of case.

(11) If an earner ceases to be in contracted-out employment by reference to the Scheme before State Pensionable Age and requires the Trustee to purchase one or more annuities for him under Rule 23A(1) the Guaranteed Minimum Pension in respect of him at State Pensionable Age or at previous death will be calculated on the basis that the Guaranteed Minimum Pension which has accrued up to cessation will be increased for each tax year after that in which his contracted-out employment ceases, up to and including the last complete tax year before State Pensionable Age or previous death, by such rate as Regulations, made under Section 45(1)(b) of the 1975 Act, specify as being relevant to the date of cessation.

To Contributors on Retirement from Eligible Employment at or after Normal Retiring Age

- (a) Subject, as hereinafter provided, the benefit payable under this Rule to a Contributor having Qualifying Service of five years or more shall be an annual pension consisting of such of the following amounts as shall be applicable:—
 - (i) an annual pension in the case of a Contributor whose service in Eligible Employment terminates on or before 20th June 1990 consisting of 1/80th of the Contributor’s Pensionable Salary for each year of Normal Contributing

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Service with a maximum of 40/80ths plus a lump sum of 3/80ths of such Salary for each year of such Service with a maximum of 120/80ths; or

- (ii) an annual pension in the case of a Contributor whose service in Eligible Employment terminates on or after 21st June 1990 consisting of 1/60th of the Contributor's Pensionable Salary for each year of Normal Contributing Service with a maximum of 40/60ths with the option of electing to take a lump sum payment in accordance with the provisions of paragraph (b) of this Rule.

Provided that—

- (i) the minimum pension payable under sub-paragraph (i) or (ii) of this paragraph, shall be at the rate of £104 per annum;
 - (ii) if the pension payable under the Scheme to a Contributor who is also entitled to pension under the Mineworkers' Scheme would, but for (i) above, be less than £104 per annum, the amount required to make up to £104 per annum the pension payable under the Scheme shall, where the pension commences to be payable after 2nd April 1961, be reduced or extinguished, as the case may be, by the amount of the pension payable under the Mineworkers' Scheme, and the minimum pension payable under the Scheme shall be adjusted accordingly; and
 - (iii) a Contributor whose service in Eligible Employment terminated on or after 19th June 1987 and prior to 21st June 1990 may elect in writing on or before benefits become payable under this Rule to receive in lieu of the aforesaid pension and lump sum a reduced lump sum payment of 1.5/80ths of Pensionable Salary for each year of Normal Contributing Service, with a maximum of 60/80ths and a pension for life increased by an amount equal to £1 for each £9 by which the said lump sum shall be reduced.
- (b) A Member whose service in Eligible Employment terminates on or after 21st June 1990 may, subject as hereinafter mentioned, at any time prior to his pension becoming payable elect to commute within Inland Revenue Limits such part of his pension as he may request for a lump sum payment on the basis of £9 for each £1 of pension commuted. A Member may not exchange such an amount of pension as would be likely to make the pension remaining to him less than the total of his Equivalent Pension Benefits and Guaranteed Minimum Pension.
 - (c) If a Contributor dies within five years of retirement, his estate to be entitled to receive a lump sum payment, equal to the difference between the pension payable to him under paragraph (a) of this Rule (exclusive of any proportion allocated under Rule 34 and calculated as if the option in paragraph (i) of Rule 22 had not been exercised) and after taking account of any commutation under paragraph (b) of this Rule in respect of the period from his retirement to his death and five times such annual pension (exclusive as aforesaid).
 - (e) A Member whose Normal Retiring Age is lower than State Pensionable Age shall, at the Committee's discretion, be entitled to exercise the option contained in paragraph (i) of Rule 22 in respect of benefits payable under this Rule.

To Contributors on Retirement from Eligible Employment before Normal Retiring Age through ill-health, compulsory by the Employer or by Agreement

- (a) A Contributor who is awarded under the provisions of paragraphs (c) and (d) of this Rule the benefits under this paragraph shall be entitled to receive the same benefits computed as under Rule 21 (retirement at or after Normal Retiring Age) but with a minimum of one-half of the benefits which would have been payable to the Contributor at Normal Retiring Age, if he had continued in service until then

and his benefits had been calculated on his actual Pensionable Salary and bringing into account his actual Back Service Credit and Added Years for Normal Benefits disregarding any allocation under Rule 34 or any variation in pension resulting from the application of paragraph (v) of Rule 53AA provided that the minimum pension payable under this paragraph shall be at the rate of £104 per annum.

- (aa) Subject to the Contributor producing evidence satisfactory to Principal Employer's Medical Adviser that through bodily or mental incapacity or physical infirmity he is unlikely to be able to carry on any duties which his Employer may reasonably assign to him, the same benefits computed as under Rule 21 (retirement at or after Normal Retiring Age) but with an additional benefit equal to one-half of the benefit which would have been payable if the Contributor had become a Member on the date of his retirement and had continued in service until Normal Retiring Age (but so that the additional benefit shall not increase the total benefits beyond the limits specified in Rule 21(a)) and his benefits had been calculated on his actual Pensionable Salary and bringing into account his actual Extra Service Credit, Back Service Credit and Added Years for Normal Benefits disregarding any allocation under Rule 34 or any variation in pension resulting from the application of paragraph (v) of Rule 53AA provided that in the case of a Member who was a Contributor and in Eligible Employment on 17th May 1990, the benefits payable under this Rule shall not be less than the benefits which would have been payable under the Rules as they had effect immediately prior to 17th May 1990 and provided also that the minimum pension payable under this paragraph shall be at the rate of £104 per annum Provided also that a full-time rescue worker or any other Contributor who retires from Eligible Employment on or after 1 April 1951, who has less than five years' Qualifying Service, shall be entitled to benefits under this paragraph if his incapacity or infirmity results from an accident or disease arising out of and in the course of his employment in Eligible Employment.
- (c) The Committee, at the Principal Employer's request, to grant the same benefits as under paragraph (a) of this Rule to any Contributor who wishes to retire, on attaining age 55 or over, provided he has at least twenty five years' Qualifying Service to his credit (including Added Years for Normal Benefits).
- (d) If a Contributor is retired compulsorily when his age is not less than 50 the Committee, when the Principal Employer in special circumstances so requests, may award the same benefits as under paragraph (a) of this Rule.
- (dd) If a Contributor wishes to retire within five years of Normal Retiring Age or is retired compulsorily when his age is not less than 50 and the Principal Employer are unwilling to request the Committee to grant the full benefits under Rule 22(a) the Committee may if the Contributor agrees grant such benefits certified as reasonable by the Actuary for such periods and subject to such conditions as the Principal Employer may request Provided that any benefits so granted shall include or comprise a pension at least equivalent to Equivalent Pension Benefit.
- (e) If a Contributor retires through ill-health on or after 5th April 1992 the provisions of paragraph (c) of Rule 21 not to apply but if he dies before the aggregate benefits paid under this Rule (including any proportion allocated under Rule 34) equal three years' Pensionable Salary, the difference to be paid to his estate.
- (g) If a Contributor to whom on his retirement on or after 23rd February, 1962, benefits have been granted under paragraph (c), (d) or (dd) of this Rule dies within five years from the date of his retirement there shall be paid to his estate a lump sum equal to the difference between the amount of pension already paid to him under this Rule and the amount which, had he lived so long, would have been paid to him under this Rule in respect of the five years from the date of his retirement, account being taken of any portion allocated under Rule 34 and of the provisions of Rule 51.

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- (i) At the option of a Member who is entitled to benefits under paragraph (c), (d) or (dd) of this Rule the Committee may determine that the amount of such Member's benefits under this Rule shall until State Pensionable Age be increased and thereafter be reduced by such amounts as may be determined, on the basis of rates approved from time to time by the Committee with the advice of the Actuary and based on the amount of the single person's State Retirement Pension payable at the time of the determination

Provided that

- (i) The Member shall notify the Committee in writing of his intention to exercise the option contained in this paragraph at the time the pension becomes payable.
- (ii) Any exercise of the option contained in this paragraph shall be irrevocable.
- (iii) The option contained in this paragraph shall be exercisable only by a Member who has attained the age of 50 and whose pension first becomes payable on or after 1st January, 1984.
- (iv) The rates of reduction and increase determined by the Committee to be applicable to a Member who has exercised the option contained in this paragraph shall be fixed and shall remain unaltered despite any increase in the rates of pension save that the Committee shall in the case of a Member who has retired before Normal Retiring Age having exercised the said option and who subsequently re-enters Eligible Employment adjust the rates applicable to his normal benefits on his subsequent retirement and the benefits payable on attaining Normal Retiring Age will be actuarially adjusted in respect of the first retirement.
- (v) The Committee may at their discretion require a Member wishing to exercise the option contained in this paragraph to provide Satisfactory Evidence of Health.
- (vi) The level of any reduction under this paragraph shall not cause the rate of pension payable to fall below the level of any Guaranteed Minimum Pension payable under Rule 20AC.
- (j) *Benefits shall be payable under paragraphs (aa), (c), (d) or (dd) of this Rule to a deferred pensioner of the Scheme who has become a contributor of IWS-SSS and who becomes entitled to benefit under those provisions of IWS-SSS which correspond to paragraphs (aa), (c), (d) or (dd) of this Rule.*

Withdrawal before retirement or death-general provisions

23.—(1) Subject to Rules 23A, 47 and 47A this Rule shall apply where a Member ceases to be a Contributor before Normal Retiring Age except

- (a) on death, or
- (b) where benefit is payable to him immediately under Rule 22, or
- (c) where Rule 24 applies to him and he does not continue to pay contributions.

(2) On ceasing to be a Contributor the Member shall, if he has two years' service in contracted-out employment within the meaning of sub-paragraph (h) of this paragraph or he has two years' Qualifying Service (after any reduction as a result of sub-paragraph (g) below) *or he ceases to be a Contributor on the Transfer Date and he becomes a contributor under IWS-SSS with effect from the day following the Transfer Date*, receive benefits under this paragraph or in any other case he may at his option (to be exercised in writing within one month of ceasing

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to be a Contributor) receive benefits under this paragraph in lieu of any other benefits under the Scheme. The benefits are:—

- (a) on the Member reaching Normal Retiring Age, or having to retire earlier through ill-health, the Normal Benefits specified in Rule 21 (retirement) or Rule 22(aa) (ill-health) but excluding the provision in Rule 22(aa) providing for an additional benefit; or
- (b) on retirement (otherwise than through ill-health) within five years before Normal Retiring Age, if the Member so requests and the Principal Employer agree, *if the request is made before the Guarantee Date (or the Committee agree if the request is made on or after the Guarantee Date)* benefits actuarially equivalent at the date of retirement to those which would have been payable by virtue of sub-paragraph (a) of this paragraph, if the Member had retired at Normal Retiring Age; or
- (c) subject as provided in sub-paragraph (d) of this paragraph, if the Member dies within five years after benefit becomes payable under sub-paragraph (a) or (b) of this paragraph, the provisions of Rule 21(c) shall not apply and his estate shall be entitled to receive an amount equal to the difference between five years' payments of the pension initially paid to the Member and the aggregate of the pension payments (ignoring any increases made subsequent to the initial payment of pension) actually paid prior to the date of death; or
- (d) if the Member retires through ill-health before reaching Normal Retiring Age and subsequently dies before the aggregate benefits paid under Rule 22 (including any proportion allocated under Rule 34 but ignoring any increases made subsequent to the initial payment of pension) equal the appropriate amount specified in sub-paragraph (e) of this paragraph (but for this purpose substituting the date of retirement through ill-health for the date of death) the difference shall be paid to his estate and sub-paragraph (c) of this paragraph, Rule 21(c) and Rule 22(e) shall not apply; or
- (e) if the Member dies before benefit becomes payable under sub-paragraphs (a) or (b) of this paragraph a payment to his estate of an amount equal to the greatest of
 - a refund of his Normal and Added Contributions to the Scheme with compound interest to the date of death;
 - $\frac{3}{80}$ ths of his Pensionable Salary multiplied by the number of years of his Contributing Service increased in accordance with paragraph (2) of Rule 33A in respect of the period from ceasing to be a Contributor to the date of death; or
 - one-tenth of his Pensionable Salary multiplied by the number of years of his Contributing Service but so that such amount shall not exceed four years' Pensionable Salary

or, if he has not less than 10 years' Contributing Service in respect of which Normal Contributions have been paid or are deemed to have been paid the greatest of the following amounts:—

- (i) one year's Pensionable Salary at the time of ceasing to be a Contributor reduced by the amount of any benefit previously paid under sub-paragraph (g) with compound interest thereon from the date of payment to the date of death but increased in accordance with paragraph (2) of Rule 33A in respect of the period from ceasing to be a Contributor to the date of death;
- (ii) $\frac{3}{80}$ ths of his Pensionable Salary multiplied by the number of years of his Contributing Service increased in accordance with paragraph (2) of Rule 33A in respect of the period from ceasing to be a Contributor to the date of death;

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- (iii) a refund of Normal and Added Contributions to the Scheme with compound interest to the date of death;
- (iv) one-tenth of his Pensionable Salary multiplied by the number of years of his Contributing Service but so that such amount shall not exceed four years' Pensionable Salary; or
- (v) where death occurs within five years before Normal Retiring Age a lump sum equal to the pension calculated under Rule 21(a) (exclusive of any portion allocated under Rule 34) and increased in accordance with paragraph (2) of Rule 33A that would have been payable to him had he retired on the day before his death for the number of years specified in the following scale according to his age at the date of his death:—

Scale

Within 1 year of Normal Retiring Age	7 years' pension
Within 2 years of Normal Retiring Age	6 years' pension
Within 3 years of Normal Retiring Age	5 years' pension
Within 4 years of Normal Retiring Age	4 years' pension
Within 5 years of Normal Retiring Age	3 years' pension

For the purposes of determining the amount payable under the above scale, pension shall be determined on the basis of 1/80th of Pensionable Salary for each year of Normal Contributing Service with a maximum of 40/80ths; or

- (f) on his death whenever it occurs, if the Member has paid Family Contributions, such of the benefits specified in Rules 29 and 30 as may be appropriate;

Provided that

- (i) if the Member retires on account of ill-health he shall produce evidence satisfactory to the Principal Employer's Medical Adviser that he is obliged so to retire;
- (ii) the benefits payable under this paragraph shall be reduced to take account of any spread-forward contributions for Added Years, Back Service Credit, waiver of qualifying periods remaining unpaid at the date on which the Member ceases to be a Contributor, such reduction not to exceed an amount which would reduce the benefits to the minimum level required by paragraph 13 of Schedule 16 to the Social Security Act 1973;
- (iii) in the application of Rule 30 by virtue of this paragraph "child" shall not include any child born more than twelve months after the date on which the Member ceased to be a Contributor;
- (iv) if the Member has less than two years' service in contracted-out employment or has less than two years' Qualifying Service the benefits payable under this paragraph shall be calculated on the basis of his Contributing Service without fractions of years credited by the operation of Rule 35(a) and excluding the minimum pension provisions of Rules 21, 22 and 29;

(2A) The benefits payable under paragraph (2) of this Rule at Normal Retiring Age to a Member who ceased to be a Contributor on leaving the service of his Employer because of redundancy may be paid at the discretion of the Principal Employer (*provided that it is exercised before the Closure Date*) with effect from such earlier date, not before the Member's

50th birthday, as the Principal Employer may determine (whether at the time he ceases to be a Contributor or subsequently), and in relation to a Member to whom benefits are so paid the five years mentioned in sub-paragraph (c) of paragraph (2) of this Rule shall start on the date so determined.

(2B) The option contained in paragraph (i) of Rule 22 shall not be exercisable by a Member ceasing to be a Contributor under this Rule save where a Member leaves Eligible Employment by reason of redundancy or a male Member shall have attained the age of 60.

(2C) For the purposes of paragraph (2) of this Rule “service in contracted-out employment” means service in contracted-out employment within the meaning of the 1975 Act by reference to the Scheme or, where a Back Service Credit has been granted in respect of the Contributor’s accrued rights under another scheme, any service in contracted-out employment within the meaning of the 1975 Act by reference to that scheme.

(4) Where the Member is not entitled to or has not elected to receive benefits by virtue of paragraph (2) of this Rule then subject to Rule 58 he shall be entitled to a refund of his Normal and Added Contributions to the Scheme with compound interest.

(5) If the Member re-enters Eligible Employment after an interval not exceeding one month he shall not be regarded as having withdrawn from Eligible Employment and no benefit shall be payable under this Rule Provided that the period between leaving and re-entering Eligible Employment shall not be regarded as Contributing Service for any purpose.

Purchase of Policy on Withdrawal

23A.—(1) A Member entitled to benefit on ceasing to be a Contributor under Rule 23 has, if such cessation takes place at least one year before Normal Retiring Age, the right, subject to Rule 47, to require the Trustee to use the cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the 1975 Act of the benefits which have accrued to or in respect of him in purchasing from an Approved Insurer chosen by him and willing to accept payment on account of the Member from the Trustee one or more annuity or other policies providing benefits for and in respect of him in substitution for the benefits otherwise payable to and in respect of him under Rule 23. The purchase of such policy or policies shall discharge the Scheme Fund from further liability to provide any benefits and shall satisfy and exhaust all entitlement to benefits for and in respect of the Member under the Rules.

(2) Such a Member may exercise the right by making an application in writing to the Trustee at any time up until one year before the date on which he attains Normal Retiring Age or (if later) six months after the date when he ceased to be a Contributor except where the 1975 Act provides that the right is no longer available.

(3) The cash equivalent shall be calculated and verified in a manner approved by the Actuary and which satisfies the requirements of Regulation 3 of the Occupational Pension Schemes (Transfer Values) Regulations 1985 and, if appropriate, the cash equivalent shall be increased or reduced in accordance with the requirements of Regulation 4 of such Regulations.

(4) If a Member exercises the right conferred by paragraph (1) of this Rule any annuity purchased must be provided by a policy of insurance or an annuity contract which satisfies the requirements of Regulations 2, 3 and 4 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1985 and the requirements of the Inland Revenue.

(5) A Member may exercise the right conferred by paragraph (1) of this Rule and by paragraph (1) of Rule 47 in different ways in relation to different portions of his cash equivalent but a Member who exercises either right must do so in relation to the whole of his cash equivalent.

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Members who cease to be employed in an eligible grade

24.—(1) This Rule applies to a Member who:—

- (a) remains in Eligible Employment but ceases on downgrading after 5th April, 1978 to be employed in a grade eligible for membership of the Principal Scheme; and
- (b) thereupon becomes a member of the Mineworkers' Scheme.

(2) The Principal Employer on the application of the Member may in exceptional cases allow him to continue as a Contributor provided that he agrees in writing to continue to pay contributions by deductions from Salary.

(3) If the Member is not allowed to continue as a Contributor under paragraph (2) of this Rule:—

- (a) the Committee shall make a transfer payment to the Mineworkers' Fund in respect of his accrued benefits under the Principal Scheme on terms that:—
 - (i) the rights allowed to him in respect of that transfer payment are in the opinion of the Committee of Management of the Mineworkers' Scheme at least equal in value to his accrued rights under the Principal Scheme; and
 - (ii) if his Actual Date of Entry is before 6th April, 1978 the benefits payable to and in respect of him under the Mineworkers' Scheme shall not be less than any which would have been payable to or in respect of him on the happening of the same events and calculated by reference to his Contributing Service and Pensionable Salary on his downgrading under Rules 24 and 25 as they had effect immediately before that date if the Rules as they then had effect had continued in operation until the date of his downgrading;
- (b) the transfer payment made in accordance with sub-paragraph (a) of this paragraph shall be calculated in accordance with tables from time to time prepared by the Actuary on the basis of the Member's accrued benefits under the Scheme immediately before his downgrading but in so far as applicable subject to deduction from the amount so calculated:—
 - (i) if at the date of his downgrading he was or had been paying spread-forward contributions, of an amount (calculated in accordance with such tables or in so far as it is not provided for in them determined by the Actuary) of so much of those contributions as remains unpaid at that date and is not taken into account to reduce his Family Contributing Service under Rule 12(4)(b);
 - (ii) of the amount of any contributions which at the date of his downgrading have been allowed to accumulate as a loan in accordance with Rule 53AA, including any contributions which if they had not been so allowed to accumulate would have become payable after that date; and
 - (iii) of the amount of any arrears of contributions payable by him at the date of his downgrading Provided that no amount of contributions shall be deducted under more than one of the provisions of this sub-paragraph; and
- (c) on the making of a transfer payment in accordance with sub-paragraph (a) of this paragraph no further benefits shall be payable to or by reference to him under the Principal Scheme.

Short Breaks in Employment

27.—(1) Without prejudice to Rule 23(5), Rule 48 or Rule 48AA but notwithstanding any other provision of the Rules, where after 5th April, 1978 a Contributor leaves Eligible Employment but:—

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- (a) within 6 months (or such longer period *as may be allowed* the Secretary of State allows in a particular case under Regulation 10(3)(a)(ii) of the Occupational Pension Scheme (Contracting-Out) Regulations 1975) and before Normal Retiring Age re-enters Eligible Employment in a grade eligible for membership of the Scheme, and either no Contributions Equivalent Premium has been paid in relation to him in connection with his so leaving or any Contributions Equivalent Premium so paid is refunded; or
- (b) re-enters Eligible Employment in a grade eligible for membership of the Scheme pursuant to a right to return to work under section 48(1) of the Employment Protection Act 1975;

he shall subject to paragraphs (2) and (3) of this Rule be treated as not having ceased to be a Contributor and no benefit shall be payable under the Scheme to or by reference to him.

(2) Any period between leaving and re-entering Eligible Employment which would not otherwise have been treated as Contributing Service in relation to a Contributor referred to in paragraph (1) of this Rule shall not be treated as Contributing Service by virtue of that paragraph.

(3) On re-entering Eligible Employment in the circumstances specified in paragraph (1) of this Rule the Contributor shall (in addition to resuming payment of Normal Contributions and if applicable paying Family Contributions under Rule 11(b):—

- (a) (i) resume payment of contributions for any Added Years for Normal Benefits he was purchasing before he left Eligible Employment; and
 - (ii) pay as a lump sum or, at his option if he is more than five years under Normal Retiring Age, spread-forward to a date five years before attaining Normal Retiring Age, the Added Contributions for Normal Benefits for the period between his leaving and re-entering Eligible Employment, accumulated at compound interest to the date of resumption of payments;
- (b) resume payment of any contributions which he was making under Rule 11 before leaving Eligible Employment in respect of arrears of contributions for Normal Benefits; such contributions for the period between his leaving and re-entering Eligible Employment being dealt with as under sub-paragraph (a)(ii) of this paragraph; and
- (c) resume payment of contributions for Further Years of Family Contributing Service if he was making any such contributions immediately before he left Eligible Employment and is still married or has any Children under the age of 18 years. Any spread-forward contributions for Further Years of Family Contributing Service he was paying before he left Eligible Employment shall be dealt with in the same way as spread-forward contributions which fall to be dealt with under Rule 12(3)(a).

(4) If before he left Eligible Employment the Contributor was paying contributions for Further Years of Family Contributing Service, and at the date of re-entering Eligible Employment he is no longer married and has no Children under the age of 18 years, but subsequently re-marries, he may exercise any option which would have been open to him on such re-marriage had he ceased to pay contributions under or by reference to Rule 12(2)(m) or if applicable Rule 12(3)(b) (including those provisions as they had effect before 6th April, 1978).

Death before retirement

28. When on or after 21st June 1990 a Contributor dies before Retirement, a payment shall be made to his estate equal to the greater of the following:—

- (a) four years' Pensionable Salary; and

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- (b) the amount of the refund of Normal and Added Contributions with compound interest.

Alternative Provisions on Death

28A.—(1) Where a Member has elected that this Rule shall apply in relation to him the Committee shall have power within six months of the death of the Member to pay or apply to or for all or any of the Dependants or Relatives of the Member the whole or any part of any sum which would by virtue of any provision of the Scheme be payable otherwise to the Member's estate and the benefit payable to the Member's estate shall be reduced by the total of any sums so paid or applied.

(1A) Before the expiry of the period within which the powers of the Committee under paragraph (1) of this Rule are exercisable in relation to any sum, the Committee may at their discretion pay the whole or any part of such sum to the Member's estate.

(2) In connection with the application of any sum for any one or more of the Dependants or Relatives of a Member the Committee shall have power to declare trusts and to constitute trustees thereof and to delegate powers and discretions to such trustees.

(3) In considering whether and in what manner they shall exercise the power conferred on them by this Rule the Committee of Management shall be entitled but in no way bound to have regard to any declaration deposited by the Member with the Secretary of the Scheme as to the person or persons he would wish to benefit and as to the extent to which and the manner in which such person or persons should benefit.

(4) Any election or declaration under this Rule shall be made in writing addressed to the Secretary of the Scheme in such form as the Committee may require and any such declaration may be revoked at any time by notice so given in writing or varied at any time by the deposit with the Secretary of the Scheme of some other declaration but any election that this Rule shall apply in relation to a Member shall be irrevocable.

(5) In this Rule "Relatives" in respect of a Member means any person other than a Dependant who is the Member's widow or widower or a lineal descendant of a grandparent of the Member or his spouse.

Widow's Benefits

29.—(1) Subject as hereinafter provided:—

- (a) The widow of a Contributor who dies after retirement shall be entitled to a pension for life equal to two-thirds of the Contributor's pension (after taking account of any commutation under Rule 21(b)) at the time of his retirement payable in respect of Normal Benefits.
- (b) The widow of a Contributor who dies while in service shall be entitled to a pension for life equal to two-thirds of the pension to which the Contributor would have been entitled under Rule 21 (Retirement at or after Normal Retiring Age) or Rule 22 (ill-health) as the case may be, if on the day before his death the Contributor, having attained or passed Normal Retiring Age had retired or not having attained that age, had retired through ill-health.
- (bb) If a Contributor dies whether after retirement or while in service, without leaving a widow, the Committee may in their discretion award the pension that would have been payable to his widow if any under whichever would have been applicable of sub-paragraph (a) or sub-paragraph (b) of this paragraph to a person who in their opinion was financially dependent on the Contributor at the date of his death and who does not become entitled to benefit under Rule 30 by reference to the Contributor,

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and a person to whom such an award is made shall be treated as the Contributor's widow for the purposes of the following provisions of this Rule and Rule 30

Provided that:—

- (i) the limitation in sub-paragraph (c)(i) of this paragraph shall not apply to any pension awarded under this sub-paragraph (bb); and
 - (ii) any such pension shall be subject to review by the Committee from time to time and following such review the Committee may in their discretion vary or extinguish any such pension.
- (bbb) The widow of a former Contributor who has paid Family Contributions and who is entitled to a deferred benefit under Rule 23(2) and who dies shall be entitled to a pension for life equal to two-thirds of the pension which the deceased former Contributor would have received if on the day before his death his deferred pension had become payable Provided that in the case of a female former Contributor who did not opt to contribute for Family Benefits in accordance with the provisions of Rule 14 and who ceases to be a Contributor after 5th April 1993 and who dies her widower shall be entitled to a pension limited to two-thirds of the pension which accrues to her after 5th April 1993.
- (c) (i) Notwithstanding anything in sub-paragraphs (a) and (b) of this paragraph, the pension payable under this Rule to the widow of a Member whose date of Retirement or, if he dies before Retirement, whose date of death is after 5th April, 1978 shall not be less than 1/160th of his Pensionable Salary for each year of his service in contracted-out employment.
- (ii) For the purposes of sub-paragraph (c)(i) of this paragraph "service in contracted-out employment" means service in contracted-out employment within the meaning of the 1975 Act by reference to the Scheme or, where a Back Service Credit has been granted in respect of the Member's accrued rights under another scheme, any service in contracted-out employment within the meaning of the 1975 Act by reference to that scheme.
- (iii) Notwithstanding the provisions of sub-paragraph (b) of this paragraph, in the case of a widow of a Member who was a Contributor and in Eligible Employment on 19th June, 1987, and who subsequently dies while in service, her pension shall not be less than that which would have been payable under the Rules as they had effect immediately prior to 19th June, 1987.

(2) If, apart from this paragraph, any woman would be entitled to more than one pension under this Rule by virtue of being the widow of more than one Contributor she shall be entitled to such one of those pensions as is the larger or largest, taking into account any increase under Rule 33 or 33A or such greater pensions as the Committee may in their discretion determine.

(3) If a Contributor has been granted immediate benefits actuarially equivalent to the Normal Benefits payable under Rule 47(1)(a) as it had effect on 31 December 1963, any pension payable to his widow under this Rule shall be calculated, if he dies after Normal Retiring Age, by reference to the pension that would have been payable to him under Rule 47(1)(a) as it had effect on 31 December 1963 on attaining Normal Retiring Age, or, if he dies before attaining Normal Retiring Age, by reference to the pension which would have been payable to him under that Rule if he had retired through ill-health the day before death.

(3A) If by virtue of Rule 23(2)(b) a Member has been granted benefits actuarially adjusted to become payable at the date of actual retirement instead of Normal Retiring Age, any pension payable to his widow shall nevertheless be calculated by reference to the pension that would have been payable to him had he retired at Normal Retiring Age and not by reference to the actuarial equivalent payable on earlier retirement.

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(4) Widow's benefit pursuant to paragraph (1) hereof shall not be payable to the widow of a Contributor whose date of death or Retirement was before 6th April, 1978 if in consequence of the operation of paragraph (2)(n) of Rule 12 no contributions were payable by him under that Rule at the date of his death or Retirement.

(5) No benefit pursuant to paragraph (1) or paragraph (2) of this Rule shall be payable to any widow if the date of her husband's Retirement was before 6th April, 1978 and at the date of his Retirement he was not married to her, unless the husband's death took place not less than six months after the date of his marriage to her.

(7) For the purpose of calculating a widow's pension under this Rule, in the calculation of the pension which was payable or would have been payable to a Contributor

(i) any variation in pension resulting from the effect, either directly or upon the exercise of an option, of any of the following: Rule 22(i), Rule 34, Rule 51 and sub-paragraph (v) of Rule 53AA shall be disregarded, and

(iii) his period of Normal Contributing Service shall be treated as if it was of the same length as his period of Family Contributing Service.

(8) For the purposes of the interpretation of this Rule in the case of a female Contributor who has opted to contribute for Family Benefits pursuant to Rule 14 the words "widow" "woman" and "husband" shall be replaced in all places where they occur respectively by the words "widower" "man" and "wife". In this Rule references to "Contributor" shall unless the context otherwise requires be construed so as including references to a Member who was formerly a Contributor.

Children's Benefits

30.—(1) Subject as hereinafter provided, Children's benefits shall be—

- (a) (i) With effect on and from 1st January, 1994 £915.12 per annum in respect of each eligible Child for the time being of a deceased Contributor or if the Contributor has left no widow or no benefit is in course of payment under Rule 20AC or Rule 29 £1,372.56 per annum in respect of each eligible Child.
- (ii) The rates of benefit provided for by sub-paragraph (a)(i) whenever becoming payable in relation to any Child shall be increased on 1st January, 1995 and on 1st January in each subsequent year by the same percentage as any percentage increase taking effect on the same date under Rule 33A and the amount of benefit payable in relation to any Child shall be calculated accordingly.

Provided that

- (i) the amount payable in respect of any Child under this sub-paragraph in any period subsequent to 31st December 1975, shall be reduced by the amount of any pension payable from the Mineworkers' Scheme in respect of such Child in respect of the same period but the amount of such reduction shall not result in the rate of benefit payable being less than £100 per annum in respect of the first or only eligible Child of the deceased Contributor and £95 per annum in respect of each younger eligible Child together with an additional £40 per Child per annum if the Contributor has left no widow or no benefit is in course of payment under Rule 29; and
- (ii) if subsequently a payment is made under Rule 29 for a period in respect of which an increase at the rate of £400 per annum (increased or reduced in accordance with either or both sub-paragraph (a)(ii) or proviso (i) above) has been paid in respect of any Child, the amount so paid may be deducted from any arrears of benefit under Rule 29; or

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- (b) with effect, subject as hereinafter provided, from 1st January 1993 (and whether or not the Contributor died after that date) the following benefits, if greater than those provided by the last preceding sub-paragraph and in lieu thereof—
- (i) where the Contributor died leaving no widow, or where his widow has died or where no benefit is in course of payment under Rule 20AC or Rule 29, a pension in respect of the Contributor's eligible Children of an amount equal, while there is one eligible Child, to forty per cent, and while there are two or more eligible Children, to eighty per cent of the pension which the Contributor
- (1) having retired, was receiving at the time of his death; or
- (2) having ceased to be a Contributor pursuant to Rule 23(2), would have received if on the day before his death his deferred pension had become payable; or
- (3) not having retired (*and the Transfer Date not having arrived*) and not having attained Normal Retiring Age, would have been entitled to if on the day before his death he had retired through ill health under Rule 22(aa); or
- (4) not having retired (*and the Transfer Date not having arrived*) but having attained or passed Normal Retiring Age, would have been entitled to if on the day before his death he had retired under Rule 21.
- (ii) where the Contributor dies leaving a widow, a pension during her lifetime or, during such period as a pension is in course of payment under Rule 20AC or Rule 29, in respect of the Contributor's eligible Children of an amount equal, while there is one eligible Child, to twenty per cent, and while there are two or more eligible Children to forty per cent of the pension which the Contributor
- (1) having retired, was receiving at the time of his death; or
- (2) having ceased to be a Contributor pursuant to Rule 23(2), would have received if on the day before his death his deferred pension had become payable; or
- (3) not having retired (*and the Transfer Date not having arrived*) and not having attained Normal Retiring Age, would have been entitled to if on the day before his death he had retired through ill health under Rule 22(aa); or
- (4) not having retired (*and the Transfer Date not having arrived*) but having attained or passed Normal Retiring Age, would have been entitled to if on the day before his death he had retired under Rule 21.
- (iii) the benefits payable under sub-paragraph (b)(i) or (ii) shall be increased on 1st January, 1994, and on 1st January in each subsequent year by the same percentage as any percentage increase taking effect on the same date under Rule 33A except that where benefits have not been payable for the complete year immediately preceding 1st January in any year the increase taking effect on that 1st January shall be one-twelfth of the said percentage increase for each Month (any part of a Month being regarded as a complete Month) in respect of which the benefits were payable in that year. In the event of a Child becoming entitled to benefit or of his entitlement re-commencing on a date subsequent to the day after the date of the Contributor's death or if earlier the day after he left Eligible Employment the rate of such benefit shall include such increases as would have taken effect if the benefit had become payable on that date and had continued to be payable at all times thereafter;
- (iv) in the case of a Member who was a Contributor and in Eligible Employment on 19th June, 1987 and who subsequently dies, the benefits payable under sub-paragraph (b)(i) or (ii) shall not be less than those which would have been payable under the Rules as they had effect immediately prior to 19th June, 1987.

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(1A) If by virtue of Rule 23(2)(b) a Member has been granted benefits actuarially adjusted to become payable at the date of actual retirement instead of Normal Retiring Age, any pension payable in respect of his Children under paragraph (1)(b) of this Rule shall nevertheless be calculated by reference to the pension that would have been payable to him had he retired at Normal Retiring Age and not by reference to the actuarial equivalent payable on earlier retirement.

(2) For the purpose of calculating a pension under sub-paragraph (1)(b) of this Rule in the calculation of the pension which was payable or would have been payable to a Contributor

- (i) any variation in pension resulting from the effect, either directly or upon the exercise of an option, of any of the following: Rule 22(i), Rule 34, Rule 51 and sub-paragraph (v) of Rule 53AA shall be disregarded, and
- (ii) if the Contributor's Actual Date of Entry is before 6th April 1978 there shall be taken into account Added Years for Normal Benefits to the extent that the Contributor has opted for Added Years for Normal Family Benefits under Rule 12 but no account shall be taken of any part of the Contributor's pension attributable to any years of Contributing Service included in a Back Service Credit and not granted to him for Normal Family Benefits and,
- (iii) if the Contributor's Actual Date of Entry is after 5th April, 1978 his period of Normal Contributing Service shall be treated as if it was of the same length as his period of Family Contributing Service.

(3) If a Member has been granted immediate benefits actuarially equivalent to the Normal Benefits payable under Rule 47(1)(a) as it had effect on 31st December 1963, the pension payable under sub-paragraph (1)(b) of this Rule shall be calculated, if he dies after Normal Retiring Age, by reference to the pension that would have been payable to the Member under Rule 47(1)(a) as it had effect on 31st December 1963 on attaining Normal Retiring Age, or, if the Member dies before attaining Normal Retiring Age, by reference to the pension that would have been payable to him under Rule 47(1)(a) as it had effect on 31st December 1963 if he retired in consequence of ill-health on the day before his death.

(4) Deleted with effect from 6th April, 1975.

(5) In this Rule "eligible Child" means—

- (a) a Child under the age of 18 years,
- (b) a Child who has not, in the opinion of the Committee, completed his education and, as to whom, if he has attained the age of 21, there are good reasons why his education should be further prolonged, and
- (c) a Disabled Child

Provided that a Child shall not be an eligible Child during any period of service with the Armed Forces under the National Service Act 1948 or any similar enactment.

(6) In this Rule:—

- (a) "education" means—
 - (i) full-time instruction at any university, school or other educational establishment, or
 - (ii) if the Child is the Child of a Contributor whose Actual Date of Entry is before 5th June 1980 training by any person for any trade, profession or vocation in such circumstances that the Child is required to devote the whole of his time to the training for a period of not less than two years, or

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- (iii) a course of the kind commonly known as a college-based sandwich course comprising alternative periods of instruction and practical training.
- (b) “Disabled Child” means—
 - (i) a Child for whose maintenance the deceased Contributor was financially responsible at the date of his death and who was certified by the Principal Employer’s Medical Adviser at that date, or, if later, the date of the Child’s ceasing to be an eligible Child by virtue of paragraph (5)(a) or (b) of this Rule, to be, and who is for the time being as so certified from time to time, totally (or, in any case in which the Committee in their discretion so decide, partially) and permanently incapable of self-support, and
 - (ii) at the discretion of the Committee a Child who would have been a Disabled Child by virtue of sub-paragraph (i) above had the deceased Contributor been financially responsible for his maintenance at the date of his death if the Committee are satisfied that the Contributor had previously been, but had, at the date of his death, ceased only temporarily, to be responsible for the maintenance of the Child.
- (c) “Contributor” shall unless the context otherwise requires be construed so as including references to a Member who was formerly a Contributor.

(7) Benefits payable under sub-paragraph (1)(a) of this Rule and, where there is only one eligible Child, under sub-paragraph (1)(b) of this Rule may be paid at the discretion of the Committee to the Child in respect of whom they are payable or to any other person for the benefit of such Child. Benefits payable under sub-paragraph (1)(b) of this Rule shall be paid where there is more than one eligible Child to such person as the Committee may from time to time direct, being a person from whom the Committee have received an undertaking in writing to apply the sums paid to him, without distinction, for the benefit of all the persons in respect of whom the benefits are for the time being payable. The receipt of any person to whom benefits are paid as aforesaid shall be sufficient discharge for the payment of such benefits.

- (a) (8) In respect of the period 1st November, 1969 to 31st December, 1975, paragraph (1) of this Rule shall apply in the form in which it had effect on 31st December, 1975, (the rates of benefit provided for by sub-paragraph (a) of that paragraph in that form being the minimum rates referred to in proviso (i) to Rule 30(1)(a)).
- (b) In respect of any period before 23rd February, 1962, paragraph (1) of this Rule shall apply with “£50”, “£45” and “£30” substituted, and in respect of the period 23rd February, 1962 to 31st October, 1969 it shall apply with “£80”, “£75” and “£32.10s.0d.” substituted, for “£100”, “£95” and “£40” respectively in the paragraph in the form in which it had effect on 31st December, 1975.

Maximum Family Benefits

31.—(1) The total sums paid in any year under Rules 29 and 30 (excluding any increases in benefits by virtue of Rule 30(1)(a)(ii) and 30(1)(b)(iii)) by reference to a Contributor shall not exceed

- (a) the annual rate of the Contributor’s Salary at the date of his death or retirement, if his Actual Date of Entry was before 17th September, 1971, or
- (b) in any other case the Inland Revenue limits.

(2) Any abatement of benefits made necessary by this Rule shall be apportioned between the widow and children concerned so that the widow’s pension satisfies the requirements of

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section 36 of the 1975 Act but otherwise in such manner as the Committee in their discretion shall decide.

Refunds of Family Contributions

32. If a Member ceases to be employed in Eligible Employment otherwise than on death and (in the case of a Member who becomes a Contributor under IWS-SSS with effect from the Transfer Date) otherwise than as a result of the arrival of the Transfer Date and he does not become entitled to a pension under the Scheme either immediately or prospectively other than Equivalent Pension Benefit then Family Contributions paid by him shall be refunded to him with compound interest and no benefits shall be payable by reference to him under Rule 29 or Rule 30 Provided that

- (ii) where a Member who ceased to pay contributions on ceasing to be employed in an eligible grade and by reason of Rule 24(a)(i) as it had effect before 6th April, 1978 he retired without entitlement to an immediate or prospective pension, no refund of Family Contributions shall be made.
- (iii) where the Member becomes entitled both to a pension and to a refund of Normal Contributions under either Rule 23(2) or Rule 23(4), he shall also receive a refund of Family Contributions for any period of Family Contributing Service which does not also constitute a period of Normal Contributing Service in respect of which he is entitled to a pension under whichever is applicable of Rule 23(2) and Rule 23(4).

BENEFITS—GENERAL

Pension Increases

33.—(1) Any pension which is in the course of payment from the Scheme on 21st June 1990 and any pension awarded pursuant to paragraph (2) of Rule 23 before such date but which is not payable until after such date shall be increased with effect from such dates as are specified in paragraph (2) of this Rule by such percentage as is shown in Column (2) of the First Schedule against the calendar year or period in which the Member ceased to be a Contributor as shown in Column (1) of that Schedule.

(2) In the case of those Members who ceased to be Contributors on or before 30th December 1989 the date of increase will be 1st December 1990 but in the case of those Members who ceased to be Contributors during the period which commenced on 31st December 1989 and terminated on 20th June 1990 the date of increase will be 1st January 1991.

(3) Any pensions of a Member who ceased to be a Contributor on or before 20th June 1990 which is subject to increase pursuant to Rule 33A during the period between 1st January 1991 and 31st December 1991 shall be increased by a further 1 per cent.

(4) Any pension which is in the course of payment from the Scheme on 5th April 1992 and any pension awarded pursuant to paragraph (2) of Rule 23 before such date but which is not payable until after such date shall be increased by 5 per cent with effect on and from 1st January 1993 and any pension which became payable or was awarded pursuant to paragraph (2) of Rule 23 prior to 1st January 1980 shall be further increased with effect on and from 1st January 1993 by such percentage as is shown in column (2) of the Second Schedule against the calendar year in which the Member ceased to be a Contributor as shown in column (1) of that Schedule.

(5) In this Rule “pension” means and includes a frozen pension as defined in paragraph (7) of Rule 33A but does not include:—

- (i) a lump sum pension;
- (ii) Equivalent Pension Benefit as defined in Rule 20AB;

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- (iii) any Guaranteed Minimum Pension payable under Rule 20AC where no additional pension benefits are payable;
- (iv) any additional amount of pension payable as the result of the exercise of the option conferred by Rule 21(b) of the Rules as they had effect immediately before 21st June 1990 or paragraph (i) of Rule 22; or
- (v) Children's benefit payable under Rule 30(1)(a) for the purposes only of paragraph (1) of this Rule and Children's benefit payable under Rule 30(1)(b) for the purposes only of paragraph (4) of this Rule.

(6) For the purposes of paragraph (4) "pension" means and includes a pension payable under Rule 29 to the widow, widower or other Dependant of a Member who was either in receipt of a pension as at 5th April 1992 or who was awarded a pension pursuant to paragraph (2) of Rule 23 prior to that date but who shall have died prior to 1st January 1993.

Provisions for Annual Increases

33A.—(1) The rate of every pension payable under the Scheme shall be increased annually by such percentage (if any) of the rate at which it is payable immediately before the increase takes effect as is ascertained in accordance with the following paragraphs of this Rule.

- (a) (2) The percentage by which increases are made in any calendar year shall be the percentage ratio (calculated to the nearest one place of decimals) by which the cost of living index for the month of November in the previous calendar year exceeds the cost of living index for that month in the year before that Provided that if in any year *before the Guarantee Date* such percentage exceeds 5 per cent, the excess increase over 5 per cent shall not, without the consent of the Principal Employer, exceed such amount as the Actuary shall have declared to be the maximum sustainable in respect of such year by the funds of the Scheme without any additional deficiency contribution or other additional payment being made by the Principal Employer.
- (b) The Actuary shall, in making his declaration under this paragraph, also declare the maximum sustainable in respect of such year by the Scheme Funds without any additional payment being made by the Principal Employer but on the footing that such Funds were reduced by the amount of the preserved share in relation to the most recent actuarial review.

(2A) Notwithstanding the generality of paragraph (2) of this Rule and for the avoidance of doubt the determination of the percentage amount of the increase in the rate of pensions made by virtue of this Rule on or after the Guarantee Date shall be made without reference to the proviso contained in paragraph (2)(a) of this Rule.

- (a) (3) With effect from 1st January 1992 every pension (including a frozen pension) payable under the Scheme shall be increased on 1st January in each year.
- (b) Where, prior to 1st January 1992, pensions were increased with effect from a date other than 1st January such pensions shall be increased on 1st January 1992 by one-twelfth of the percentage determined in accordance with paragraph (2) of this Rule for each month (any part of a month being regarded as a complete month) occurring between the date from which the increase would have been payable under the Rules as they had effect immediately prior to 1st January 1992 and 1st January 1992. Where a Member's service in Eligible Employment terminated during the calendar year 1991 his pension shall be increased on 1st January 1992 by one-twelfth of the percentage determined in accordance with paragraph (2) of this Rule for each month (any part of a month being regarded as a complete month) occurring between the date on which his service in Eligible Employment terminated and 1st January 1992.

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- (c) Where a Member's service in Eligible Employment terminated prior to 1st January 1992, the Member's pension with effect from 1st January 1993 shall, unless the pension would have been increased on that date in accordance with the Rules as they had effect immediately prior to 1st January 1992, be further increased to take account of the increase the Member would have received under those Rules during the calendar year 1993.
- (d) Where a Member's service in Eligible Employment terminates on or after 1st January 1992 his pension shall be increased on the following 1st January by one-twelfth of the percentage determined in accordance with paragraph (2) of this Rule for each month (any part of a month being regarded as a complete month) occurring between the date from which the increase would have been payable under the Rules as they had effect immediately prior to 1st January 1992 and the following 1st January.

(4) Paragraph (1) of this Rule shall apply to frozen pensions and to widow's prospective pensions as well as to pensions which are actually being paid, and, for the purpose of calculating the increase of any such pension for any year, the rate before the increase takes effect shall be taken to be the rate at which the pension would have been payable had it become payable immediately before the increase date in that year.

- (a) (5) When a frozen pension and a frozen lump sum become payable to a Member a supplement shall be paid with the lump sum.
- (b) The amount of the supplement shall be such that the total of the lump sum and the supplement is equal to the original amount of the lump sum increased by the percentage by which the frozen pension would have been increased under Rule 33A as it had effect immediately prior to 1st January 1992, but any amount payable under the Fourth Special Scheme by way of supplement to the lump sum shall be taken into account as if it were part of the supplement calculated under this paragraph.
- (c) For the purposes of this paragraph the original amount of the lump sum and the original rate of the pension shall be the amount and rate calculated as at the end of the Contributing Service for which the pension and lump sum are payable.

(6) In this Rule —

“the cost of living index” means the General Index of Retail Prices for all items shown in the monthly Digest of Statistics published by the Central Statistical Office or, in the event of that index ceasing to be published, such other national index as the Committee shall determine to be most suitable;

“frozen pension” means a pension which will become payable to a former Contributor by virtue of Rule 23 or 24 and “frozen lump sum” has a corresponding meaning;

“pension” does not include a lump sum, children's benefit under Rule 30, Equivalent Pension Benefit as defined in Rule 20AB any Guaranteed Minimum Pension under Rule 20AC where no other pension is payable under the Scheme or any additional amount of pension payable under Rule 21 of the Rules as they had effect immediately prior to 21st June 1990 as a result of the exercise of an option under paragraph (b) of that Rule or paragraph (i) of Rule 22; and

“widow's prospective pension” means a pension which will become payable under Rule 29 to a widow on the death of her husband.

(7) Without prejudice to paragraph (6) of this Rule, if and in so far as the Principal Employer may from time to time determine:—

- (a) the rate of:—

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- (i) a pension payable to a Contributor or former Contributor at the date on which he attains the age of 65 (60 for women) or, if later, on which that pension first becomes payable; and
- (ii) a pension payable to the widow of a Contributor or former Contributor (including a widow's prospective pension) at the date on which his Contributing Service ceases or, if later, the date on which he attains the age of 65 or dies under that age;

shall not for the purposes of paragraph (1) of this Rule include the amount of any Guaranteed Minimum Pension payable or prospectively payable to the Contributor or former Contributor or his widow, as the case may be, by virtue of Rule 20AC; and

- (b) the rate at which such pension is payable at any subsequent date shall for the purposes of paragraph (1) of this Rule be calculated accordingly.

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

Allocation of pension to widow, widower or Dependants

34. Contributor on retirement or withdrawal or after attaining Normal Retiring Age at any time up to retirement, to have option of surrendering a portion of pension payable under Rule 21 (retirement), Rule 22 (early retirement) or Rule 23(2), (2A) or (4) (withdrawal before retirement or death) to provide reversionary annuity or annuities after his death for his widow or (in the case of a female Contributor) her widower or any Dependants nominated in writing for their respective life or lives or until they attain any specified age provided that total of annuities so allocated do not exceed total of reduced pension payable to the Contributor after such surrender, of any deferred pension to which Contributor is entitled and of such pension as is in the opinion of the Committee, having regard to Inland Revenue limits, the equivalent of any lump sum benefit payable to the Contributor. Annuities payable under this Rule to be calculated in accordance with such Table as the Committee may approve from time to time and in force at the date when the Contributor exercises the option, subject to any appropriate adjustment, as a result of examination of the Contributor by the Principal Employer's Medical Adviser, which the Committee, in their discretion, may require.

Fractions of years

- (a) For the purpose of calculating all benefits, except as specified in Rule 15A(5), proviso (iv) to Rule 23(2) and Rule 35AA, a final fraction of a year's Contributing Service shall rank as a complete year but a sum equal to the Member's Normal and (when applicable) Family Contributions for the balance of the year shall be deducted from the benefits payable except where the application of this Rule would not result in an increase of benefits actuarially greater in value than the amount which would be payable hereunder Provided that this Rule shall not apply if by reason of such application the benefits would exceed the Inland Revenue limits.
- (b) Where paragraph (a) of this Rule does not apply, the final fraction of a year's Contributing Service except as specified in Rule 35AA shall be included in the calculation of benefits notwithstanding references in these Rules to years of Contributing Service.

Delayed Retirement

35AA.—(1) This Rule shall apply where exceptionally a Contributor is retained in Eligible Employment after attaining Normal Retiring Age for more than six months.

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(2) For each complete year and/or fraction of a year exceeding six months of service after the Contributor reaches Normal Retiring Age or completes forty years' Contributing Service, whichever is the later, the Contributor shall be credited with an additional year's Contributing Service, with a maximum of five years, and such additional years shall count for the calculation of benefits notwithstanding any provision in the Rules imposing a limit expressed as a fraction of Pensionable Salary upon the benefits payable.

(3) For each complete year and/or fraction of a year exceeding six months of service after the Contributor reaches Normal Retiring Age an increase of one, with a maximum of five, shall be made subject to paragraphs (4) and (5) of this Rule in the number of years and the number of times his annual pension mentioned in Rule 21(c).

(4) Where the Contributor's Actual Date of Entry is on or after 17th September, 1971, and he dies before Retirement the amount payable by virtue of paragraph (3) of this Rule shall not exceed the aggregate of

(i) four times the rate of the Contributor's Pensionable Salary (or, if greater, four times the annual rate of his salary at the date of his death) and

(ii) his Normal and Added Contributions with interest

but, at the option of the Contributor's widow (if he left a widow entitled to benefit under Rule 29, or otherwise of his personal representatives) the amounts that would have been paid to him had he retired on the day before his death by way of pension shall be paid to his estate for a period of eight years instead of a lump sum.

(5) Where the Contributor's Actual Date of Entry is on or after 17th September, 1971, and he dies after Retirement a lump sum shall not be paid under paragraph (c) of Rule 21 but, where that paragraph would otherwise apply, amounts equal to the amounts that, but for his death, would have been paid to him by way of pension shall be paid at the discretion of the Committee to his widow or to his estate for the remainder of the period mentioned in that paragraph as increased in accordance with paragraph (3) of this Rule.

(6) For the purposes of paragraphs (4) and (5) of this Rule the amount that would have been paid by way of pension shall be the amount after the deduction of any portion allocated under Rule 34 or of any sum under Rule 51.

(7) Where on the death of the Contributor paragraph (4) of this Rule applies and the option conferred by it has been exercised, or paragraph (5) of this Rule applies, no benefit shall be paid under Rule 29 or 30 by reference to him until the end of the period in respect of which payments are made in accordance with the paragraph concerned.

(8) If the Contributor has made an election under Rule 28A then, in relation to any sum that would be payable otherwise to his estate by virtue of this Rule, the power of the Committee under that Rule shall be exercisable within six months of the date on which such sum is payable.

Pensionable Salary

36.—(1) The Pensionable Salary of a person whose service ends on or after 8th May, 1978, shall be the greatest of the following:—

- (a) his Salary in respect of the last year of his service,
- (b) the average annual rate of his Salary over the highest paid four consecutive years ending on the last pay day before 6th April in any year within the last ten years of his service or, if his Actual Date of Entry was before 17th September, 1971, the last twenty years of his service,
- (d) his Adjusted Salary in respect of any year in the last five years of his service other than the last of those years,

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- (e) the average annual rate of his Adjusted Salary over any three consecutive years of his service ending not more than ten years before the end of his service.
- (2) For the purposes of this Rule—
- (a) “service” in relation to any person means Contributing Service and service which would be Contributing Service but for Rule 11(c)(i) Provided that no period in respect of which any sum is payable under Rule 35 and, except for the purposes of Rule 23(4) no period in respect of which a refund of contributions has been made but not repaid, shall be treated as a period of service,
 - (b) the “Adjusted Salary” of a Contributor for any year shall be the actual Salary of the Contributor for that year increased by the percentage ratio (calculated to the nearest one place of decimals) by which the cost of living index (as defined in Rule 33A(6)) last published before the end of that year was exceeded by that index last published before the end of his service,
 - (c) except in paragraphs (1)(b) and (1)(c) “year” in relation to any person means a year ending on the same calendar date as the date that person’s service ends.
- (3) The service of a Contributor who is retained in Eligible Employment after Normal Retiring Age shall be treated for the purposes of paragraph (1)(a) of this Rule as having ended on his attaining that age if his Pensionable Salary as so ascertained is greater than it would be otherwise.
- (4) The Pensionable Salary of a person whose service ended before 8th May, 1978 shall be ascertained in accordance with the provisions of this Rule in the form in which it had effect immediately before that date.

SPECIAL BENEFITS

Contributions Equivalent Premiums paid under the 1975 Act

38A. Where a Contributions Equivalent Premium falls to be paid by an Employer on the coming to an end of a Member’s period of service in contracted-out employment (within the meaning of the 1975 Act) by reference to the Scheme, and Benefit is payable to the Member by way of refund of any payments made under the Scheme by or in respect of him, the amount of such Benefit will pursuant to section 47(7) of the 1975 Act be reduced by the amount which that Employer is entitled to recover from the Committee under section 47 of the 1975 Act by reason of paying such Contributions Equivalent Premium.

SPECIAL CLASSES

Entrants from other employment with Transfer Value Payments

- (a) *Subject to Rule 44AF where an entrant from previous employment who was a member of a Superannuation Scheme (not being an entrant to whom paragraph (c) of this Rule applies), and who on transfer to Eligible Employment received and brought with him a Transfer Value Payment or other sum paid out or a fully or partly paid policy of life or endowment or deferred annuity insurance from such scheme which, if such previous employment was contracted-out employment (within the meaning of the 1975 Act) by reference to that scheme, includes or covers an amount in respect of the Guaranteed Minimum Pensions which will or may become payable under that scheme to the entrant or the widow or widower as the case may be of the entrant calculated in accordance with sub-sections (1) to (5) of section 35 and if applicable sub-section (3) of section 36 of the 1975 Act, without regard to sub-section (7) of section 35 of that Act or Regulation 7 of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions)*

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Regulations 1976, to have the option on paying such sum or surrendering such policy to the Principal Scheme of being granted the actuarially computed equivalent Back Service Credit for Normal Benefits and Family Benefits (if any) in the Principal Scheme.

- (c) *Subject to Rule 44AF where* an entrant into Eligible Employment on or after 1st January, 1974 in respect of whom there is paid to the Principal Scheme a Transfer Value Payment from a scheme approved for the time being for the purposes of Section 6 of the Principal Civil Service Pension Scheme 1972 shall be granted a Back Service Credit for Normal Benefits and Family Benefits actuarially equivalent to the amount of the said payment according to the tables in Appendix II to the said Pension Scheme, but, if it is greater than the number of years of Contributing Service so granted, the whole of the Service in respect of which the Transfer Value Payment was made shall count for the purpose of the provisions of the Principal Scheme relating to qualifying periods.
- (d) In this Rule the expression “entrant” shall include a Member who, having been granted benefits under the Principal Scheme on leaving Eligible Employment, re-enters Eligible Employment and again becomes a Contributor.

Entrants from the Mineworkers' Scheme

44AA.—(1) Where a Member who was a contributor to or entitled to benefits under the Mineworkers' Scheme enters Eligible Employment in a grade eligible for membership of the Principal Scheme, and the Committee of Management of the Mineworkers' Scheme make to the Principal Scheme a transfer payment in respect of his accrued benefits under the Mineworkers' Scheme, he shall be granted a Back Service Credit for Normal and Family Benefits (but in the case of a female Member for Normal Benefits only) actuarially equivalent in value to such transfer payment and calculated in accordance with tables from time to time prepared by the Actuary.

(2) Where a Contributor whose Actual Date of Entry is before 6th April, 1978:—

- (a) ceases after 5th April, 1978 to be employed in a grade eligible for membership of the Scheme and is not allowed to continue as a Contributor under Rule 24(2); but
- (b) subsequently re-enters an eligible grade without having left Eligible Employment;

any Back Service Credit granted to him under paragraph (1) of this Rule shall not be less than his periods of Normal and if applicable Family Contributing Service at the date when he was downgraded.

(3) If on or after the date when a Member who is also entitled to benefits under the Mineworkers' Scheme retires or withdraws from Eligible Employment the Committee of Management of the Mineworkers' Scheme make to the Principal Scheme a transfer payment in respect of his accrued benefits under the Mineworkers' Scheme, the Committee shall pay under the Principal Scheme the benefits which would, if that transfer payment had not been made, have been payable to or by reference to him under the Mineworkers' Scheme, and the provisions of Rules 54 to 61 of the Principal Scheme shall apply to any benefits so payable.

Extra Service Credit

44AD.—(1) A Member who was a Contributor and in Eligible Employment on 19th June 1987 shall be awarded, without additional payment, one month's Extra Service Credit for each complete year of Normal Contributing Service served prior to that date Provided that in no event shall the Extra Service Credit exceed three years.

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(2) A Member who was a Contributor and in Eligible Employment on 21st June 1990 shall be awarded, without additional payment, one month's Extra Service Credit for each complete eight months of Normal Contributing Service served prior to that date Provided that in no event shall the Extra Service Credit under this paragraph exceed three years.

(3) A Member who was a Contributor and in Eligible Employment on 5th April 1992 shall be awarded, without additional payment, one month's Extra Service Credit for each complete five months of Normal Contributing Service served or earned prior to that date Provided that in no event shall the Extra Service Credit under this paragraph exceed five years.

Special Provisions Relating to Part-Time Service

44AE.—(1) Subject to the provisions of Rule 20AC and to Inland Revenue Limits but otherwise notwithstanding any other provision of the Rules, the following special provisions shall apply in respect of any Member who has been in Part-Time Service for any period or periods during his last or only period of service in Eligible Employment for the purposes of calculating the pension benefits appropriate to and in respect of him under the Scheme and for such purposes only:—

- (i) in relation to any week or month as the case may require of Part-Time Service his Salary shall be converted into the Salary which he would have received if he had been in Full-Time Service by multiplying the Salary by the number of hours which he would have worked in Full-Time Service during such period and dividing by the number of hours which he worked in Part-Time Service during such period; and
- (ii) any period of his Contributing Service which is Part-Time Service shall be ascertained by multiplying such period by the Part-Time Factor appropriate to such period.

(2) For the purposes of Schedule 16 to the Social Security Act 1973 Part-Time Service shall count as qualifying service at its full length.

44AF. *The Committee shall not without the consent of the Guarantor receive after the Guarantee Date any transfer value or other payment from another pension scheme.*

Cash Equivalent Transfers and Other Transfer Payments to Other Pension Schemes

47.—(1) A Member entitled to benefit on ceasing to be a Contributor under Rule 23 has, if such cessation takes place at least one year before Normal Retiring Age, the right, subject to Rule 23A, to require the Trustee to use the cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the 1975 Act of the benefits which have accrued to or in respect of him (*which for the avoidance of doubt shall not include Bonus Augmentations or Crystallised Augmentations*) in making a transfer payment to another pension scheme in accordance with paragraph (2) of this Rule Provided that if a Member gives written notice pursuant to paragraph (2) of Rule 2 he shall have a right to require a cash equivalent transfer payment only in respect of his period of Contributing Service after 5th April 1988 and the right contained in this paragraph in respect of his period of Contributing Service prior to 6th April 1988 shall not apply unless and until such Member leaves service in Eligible Employment before Normal Retiring Age.

(2) A transfer payment may be made to another pension scheme only if

- (i) the other pension scheme is an exempt approved scheme within the meaning of Section 592 of the Income and Corporation Taxes Act 1988 or a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 or is otherwise approved for this purpose by

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the Commissioners of Inland Revenue and the transfer payment is made in circumstances approved by the Occupational Pensions Board; and

- (ii) the trustees or administrator of the other pension scheme agree that only the amount included in the transfer payment attributable to a Member's contributions to the Scheme shall be treated as having been contributed by that person to the other scheme.

(3) In the case of a transfer payment in respect of a person to whom a Guaranteed Minimum Pension is payable or prospectively payable as described in Rule 20AC either:—

- (i) the other pension scheme is a contracted-out scheme (as defined in Section 32 of the 1975 Act) or an appropriate personal pension scheme (as defined in Section 2 of the Social Security Act 1986); or
- (ii) the liability to pay the Guaranteed Minimum Pension is retained by the Scheme or is discharged by the payment of a state scheme premium pursuant to sub-section (1) of Section 44A of the 1975 Act

and in either case compliance is made with the relevant requirements of the 1975 Act.

(4) Such a Member may exercise the right by making an application in writing to the Trustee at any time until one year before the date on which he attains Normal Retiring Age or (if later) six months after the date when he ceased to be a Contributor except where the 1975 Act provides that the right is no longer available.

(5) The cash equivalent shall be calculated and verified in a manner approved by the Actuary and which satisfies the requirements of Regulation 3 of the Occupational Pension Schemes (Transfer Values) Regulations 1985 and, if appropriate, the cash equivalent shall be increased or reduced in accordance with the requirements of Regulation 4 of such Regulations.

(6) A Member may exercise the right conferred by paragraph (1) of this Rule and by paragraph (1) of Rule 23A in different ways in relation to different portions of his cash equivalent but a Member who exercises that option must do so in relation to the whole of his cash equivalent or where paragraph 13(5) of Schedule 1A to the 1975 Act applies, in relation to the whole of the sum mentioned in paragraph 13(6) of that Schedule.

(7) In special cases or classes of case, the Committee shall have power, on a Member entitled to benefit ceasing to be a Contributor under Rule 23, at the request of such Member to make a transfer payment exceeding the cash equivalent to another pension scheme in accordance with paragraph (2) of this Rule of such amount as the Principal Employer may approve and as the Committee may think just and equitable having regard to the advice of the Actuary *provided that no transfer payment or payments in excess of the cash equivalent in any one case or in excess of the aggregate cash equivalents (if being made in respect of more than one Member) shall be made on or after the Guarantee Date without the consent of the Guarantor.*

(8) The making of a transfer payment in accordance with this Rule shall discharge the Trustee from any further liability to pay the benefits by reference to which they were made so that the person who have been entitled to those benefits and, in the case of a Member or former Member, all persons claiming by reason of his membership shall cease to have any rights under the Scheme except to the extent that the liability to pay Guaranteed Minimum Pensions is retained and is not discharged by the payment of a state scheme premium (as defined in sub-section (1) of Section 44A of the 1975 Act).

(9) Where a transfer payment is made pursuant to this Rule, benefits shall not be payable under Rule 23 and where such transfer payment includes benefits corresponding to Normal Family Benefits, no refund of Family Contributions shall be payable to the Member under Rule 32.

Transfers to IWS-SSS

47A.—(1) *A Member entitled to benefit on ceasing to be a Contributor under Rule 23 at the Transfer Date who is admitted to membership of IWS-SSS may at his option in lieu of entitlements under Rule 47 require the Committee to transfer to the trustee of IWS-SSS such assets in respect of him as correspond to the Transferable Sum as defined in (3) below.*

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

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

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

(5) *Where a transfer of the Transferable Sum is made pursuant to this Rule, benefits shall not be payable under the Rules, no refund of Family Contributions shall be paid to the Member under Rule 32 and no bonus Augmentations shall be paid.*

Periodic Transfers

47B.—(1) *The Committee shall (during such time only as the reduction in the liability of contributing members of IWS-SSS to make the contributions referred to in paragraph (2) of this Rule continues) as soon as practicable following the date which is three months after the Transfer Date and at intervals of 3 months thereafter transfer to the trustee of IWS-SSS an amount equal to the Periodic Transferable Sum.*

(2) *The Periodic Transferable Sum shall be an amount certified to the Committee and the Guarantor by the actuary to IWS-SSS as being equal to the aggregate of the amount of family contributions which would have been paid by contributing members to IWS-SSS to secure family benefits under IWS-SSS in the preceding 3 month period but for the reduction in the liability of the contributing members to make those contributions until 5 April 2009 as set out in those provisions of the rules of IWS-SSS as correspond to Rules 11 and 14.*

Temporary Absences without Salary or at reduced Salary

- (a) References to “contributions” in paragraphs (b) and (c) of this Rule are references to contributions payable pursuant to Rule 11(a) or (b).
- (b) Subject as hereinafter provided, a Contributor who is temporarily laid off or granted leave of absence for a period not exceeding one week in the case of a Contributor paid weekly or one month in the case of a Contributor paid monthly, and who receives no Salary or less than full Salary in respect of such period of absence, shall pay the amount by which the contributions which would have been payable by him if he had received full Salary in respect of such period of absence exceeds the contributions (if any) paid by him in respect of that period. The amount so payable shall (if not otherwise paid) be deducted from the first payment of Salary made to the Contributor following his return to duty, and on payment being made the period of absence shall count as Contributing Service.
- (c) A Contributor who is temporarily laid off or granted leave of absence for a period exceeding one week in the case of a Contributor paid weekly or one month in the

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case of a Contributor paid monthly, and who receives no Salary or less than full Salary in respect of the whole or any part of such period of absence, may opt to pay the amount by which the contributions which would have been payable by him if he had received full Salary in respect of the whole of the period hereinafter mentioned exceeds the contributions (if any) paid by him in respect of that period, together with interest on the excess; and subject to payment being made in accordance with the Rules the whole of such period shall count as Contributing Service. The period in respect of which payment may be made as aforesaid shall be the whole of such period of absence in respect of which the Contributor receives no Salary or less than full Salary, or such part thereof as does not exceed twelve months, whichever be the less, provided that the Principal Employer may in an exceptional case extend the said limit of twelve months and also that the said limit of twelve months shall not apply to absence to which paragraph (e) (ii) of this Rule applies. The option under this paragraph may be exercised at any time before or within three months after return to duty or Retirement and, if the Contributor dies without returning to duty, may be exercised by his personal representatives within six months of the Contributor's death.

- (cc) *For the purposes of this Rule 48 the arrival of the Transfer Date shall in respect of a Contributor to whom paragraphs (b) and (c) of this Rule would at that time apply, operate to terminate his Eligible Employment and the provisions of Rule 23 shall apply subject to the following provisions of this Rule.*
- (i) *In relation to a Contributor to whom at the Transfer Date paragraph (c) applies and who has not returned to duty on full pay before the Transfer Date and paid the contributions referred to in paragraph (c), the Committee may at its discretion waive the payment of such contributions.*
 - (ii) *In relation to a Contributor to whom at the Transfer Date paragraph (d) applies, the facility under that paragraph to pay Family Contributions may be exercised by or in respect of him at any time before or within three months of the Transfer Date. For the purposes of this Rule no period of absence after the Transfer Date may (subject to the payment of the appropriate contributions) count as Contributing Service.*
- (ccc) *For the purposes of this Rule only the Transfer Date shall be deemed to have arrived in relation to a Contributor to whom this Rule 48 applies as follows:*
- (i) *In respect of a Contributor whose employment (notwithstanding his temporary absence) is transferred pursuant to a restructuring scheme the Transfer Date shall be the day immediately before the day on which the restructuring scheme takes effect;*
 - (ii) *In respect of a Contributor whose employment is not included in a restructuring scheme which transfers the employments in the business in which the Contributor was working immediately prior to his temporary absence, the Transfer Date shall be the date which is the Transfer Date in relation to the employments (other than the employment of the Contributor) in the business in which the Contributor was employed immediately before his temporary absence commenced.*
 - (iii) *In respect of a Contributor whose employment has not prior to the Closure Date been transferred under a restructuring scheme under (i) above or treated as if it had been transferred under (ii) above, the Transfer Date shall be the Closure Date or the date on which he ceases to be in Eligible Employment whichever first occurs.*

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In this paragraph (ccc) “restructuring scheme” shall have the meaning given to that term in section 12 of the 1994 Act.

- (d) Except as provided in the foregoing paragraphs, for the purposes of calculating Normal and if applicable Family Contributing Service a period of absence without Salary shall not count as Normal or Family Contributing Service, and a period of absence on less than full Salary shall count as Normal Contributing Service and if Family Contributions are paid Family Contributing Service on full Salary for a proportionately reduced period Provided that where prior to 6th April, 1975, in any contribution year for the purposes of the 1959 Act a Contributor is absent from work in Eligible Employment he shall have in respect of such absence a period of Contributing Service equal to the number of contribution weeks in that contribution year which may not, by virtue of the proviso to Regulation 3 of the National Insurance (Non-participation — Assurance of Equivalent Pension Benefits) Regulations, 1960, be included by his Employer in a notice given by him in relation to the Contributor under the said Regulation Provided further, that where a period of absence of a Contributor counts as Contributing Service by virtue only of the foregoing proviso, the Contributor shall pay in respect of such period of absence the contributions which would have been payable by him if he had received full Salary in respect of the period of absence, and the amount so payable shall (if not otherwise paid) be spread forward over a period ending on the next or next but one 5th April following his return to duty; and if he shall not return to duty the amount of any benefit payable to him or to his estate shall be reduced by the amount so payable as aforesaid.
- (e) For the purposes of the foregoing paragraphs, absence of any duration on less than full Salary or without Salary shall be deemed to be absence for which leave has been granted where either (i) the Principal Employer so decide or (ii) it is absence on Approved National Service or on compulsory service in the Armed Forces of the Crown or on any other compulsory national service. Nothing in this paragraph shall entitle a Contributor to contribute in respect of any period spent in such service prior to entering Eligible Employment otherwise than as provided in Rule 43 or in respect of any period prior to the date when he qualified, or would have qualified but for absence from Eligible Employment, for membership under Rule 1.
- (eee) For the purposes of this Rule service in the Armed Forces of the Crown shall be deemed to be compulsory notwithstanding that it is undertaken by virtue of voluntary membership of any reserve or auxiliary force.
- (f) A Contributor who before returning to duty exercises an option in pursuance of paragraph (c) hereof, shall forthwith and as a condition of the exercise of the option pay as a single lump sum the amount payable under that paragraph in respect of the period ending on the date of the exercise of the option, and shall pay the amount payable under that paragraph in respect of any subsequent week or month (as the case may be) on the day in that week or month on which contributions would normally have been paid by the Contributor.
- (g) A Contributor who exercises an option in pursuance of paragraph (c) hereof after returning to duty shall have the option of paying the amount due in consequence of the exercise of the option as a single lump sum within three months of the date of exercise of the option, or of having the amount spread forward with compound interest over the period from the date of exercise of the option to such date, not being later than five years before Normal Retiring Age, as may be agreed by the Committee, provided that where the contributions relate to a period not exceeding two years, the period of spread forward may terminate on the next or next but one 5th April, or extend for a period not exceeding two years from the date of commencement

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of contributions in either of which events no compound interest shall be payable. In any other case (save as provided in paragraph (f) hereof) the amount due in consequence of the exercise of an option under paragraph (c) hereof shall be paid as a single lump sum within twenty-eight days of the date of exercising the option.

- (h) If in consequence of absence a Contributor fails to make any payment or to pay any contributions (not being contributions as defined in paragraph (a) of this Rule) falling due within the period of absence, the amount so payable shall, at the Contributor's option, be paid as a single lump sum within three months of the date of his return to duty or be spread forward with compound interest over the period from the date of his return to duty to such date, not being later than five years before Normal Retiring Age as may be agreed by the Committee, provided that where the contributions relate to a period not exceeding two years, the period of spread-forward may terminate on the next or next but one 5th April, or extend for a period not exceeding two years from the date of commencement of contributions, in either of which events no compound interest shall be payable. If the Contributor by reason of death or Retirement does not return to duty, any such payment or contributions which have fallen due up to the date of his death or Retirement and are unpaid shall be payable on demand.
- (i) Paragraph (b) of this Rule shall not, without his consent, apply to a Contributor whose Actual Date of Entry is prior to 6th July, 1956.

Absence on Maternity Pay

48AA.—(1) For the purposes of this Rule a Member shall be treated as absent on Maternity Pay for any period *before the Transfer Date* in respect of which:—

- (a) she is entitled to receive Maternity Pay calculated by reference to remuneration from Eligible Employment; but
- (b) she is not entitled to receive full Salary (whether or not after any deduction in respect of Maternity Pay or otherwise)

(2) Notwithstanding any other provisions of the Rules:—

- (a) during any period while she is absent on Maternity Pay a Member shall be deemed for the purposes of the Scheme to be receiving full Salary and shall in particular pay contributions accordingly provided that with effect from 23rd June 1994 a Member shall be required to pay contributions only on that amount of remuneration or Maternity Pay paid to her during such period; and
- (b) that period shall be deemed to be a period of Normal Contributing Service and if she is paying Family Contributions Family Contributing Service in relation to her commencing on the date of commencement of the period during which she is absent from work referred to in paragraph (1)(b) of this Rule.

(3) Paragraph (2) of this Rule shall not, without her consent, apply to a Member whose Actual Date of Entry was before 6th April 1978.

- (a) (4) *For the purposes of this Rule 48AA the arrival of the Transfer Date shall in respect of a Member to whom this Rule would at that time apply, operate to terminate her Eligible Employment and the provisions of Rule 23 shall apply subject to the following provisions of this Rule.*
- (b) *For the purposes of this Rule only the Transfer Date shall be deemed to have arrived in relation to a Member to whom this Rule 48AA applies as follows:*
 - (i) *In respect of a Member whose employment during her absence on Maternity Pay is transferred pursuant to a restructuring scheme the Transfer Date shall*

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be the day immediately before the day on which the restructuring scheme takes effect;

- (ii) *In respect of a Member whose employment is not included in a restructuring scheme which transfers the employments in the business in which the Member was working immediately prior to the commencement of her absence, the Transfer Date shall be the date which is the Transfer Date in relation to the employments (other than the employment of the Member) in the business in which the Member was employed immediately before her absence on Maternity Pay commenced.*
- (iii) *In respect of a Member whose employment has not prior to the Closure Date been transferred under a restructuring scheme under (i) above or treated as if it had been transferred, under (ii) above, the Transfer Date shall be the Closure Date or the date her Eligible Employment ceases whichever first occurs.*

In this paragraph (4) “restructuring scheme” shall have the meaning given to that term in section 12 of the 1994 Act.

Re-admission of Retired Contributors

- (a) If a Contributor, who shall have become entitled under Rule 22(aa) (ill-health) to a pension on account of ill-health, incapacity or infirmity considered to be permanent, shall subsequently, *before the First Transfer Date* and before he has reached Normal Retiring Age, in the opinion of the Principal Employer’s Medical Adviser be able, owing to the improved condition of his health, to discharge with efficiency the duties of the office or employment held by him on the date of his becoming entitled to such pension or of some other office or employment in Eligible Employment, and his Employer offers in writing to reinstate him in the office or employment which he has ceased to hold or in some other office or employment in Eligible Employment, he shall on returning to Eligible Employment or on the expiry of three months from the date of the offer, whichever shall first happen, cease to receive the pension which is being paid to him in respect of his previous service, but without prejudice to his entitlement to Equivalent Pension Benefit and if a Contributor who has become entitled to benefit under Rule 22(aa) ceases by virtue of this Rule to receive a pension after 5th April, 1975, and does not return to Eligible Employment, his pension will be reinstated on the Member attaining Normal Retiring Age at the rate, including increases under Rule 33A, at which it was payable when last paid but subject to any reduction under Rule 51. After his death no further benefits shall be payable except that if he had paid Family Contributions, benefits shall be payable under Rules 29 and 30 if there is any person entitled to receive benefit under those Rules. For the purpose of calculating benefits under those Rules the Member’s pension shall be deemed to be the pension which would have been payable to him under Rule 23(2) calculated as at the day he left Eligible Employment. Any widow’s pension shall be regarded as a widow’s prospective pension for the purpose of Rule 33A.
- (aa) If a Contributor who has received benefits under Rule 22 on account of incapacity or infirmity, and has returned to Eligible Employment, either
 - (i) becomes entitled again to benefits under Rule 22 on account of infirmity or incapacity, or
 - (ii) becomes entitled to benefit on retirement at or after Normal Retiring Age, the rate at which a pension shall be payable to him under Rule 22 or on such retirement as the case may be (apart from any reduction by virtue of Rule 34, Rule 35 or Rule 51) shall not be less than the rate at which a pension was

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previously payable to him immediately before, by virtue of this Rule, it ceased to be payable.

- (aaa) If a Contributor who has been granted benefits under Rule 22(d) subsequently returns to Eligible Employment, the provisions of paragraph (a) of this Rule shall apply to him as if the reference therein to paragraph (a) of Rule 22 were to paragraph (d) thereof.
- (bb) If a Contributor leaves Eligible Employment in circumstances giving rise to the payment of benefits under Rule 23(4) and if applicable Rule 32 and at a later date re-enters Eligible Employment and again becomes a Contributor, then, at the discretion of the Principal Employer, his earlier service shall again be reckoned as Qualifying and Normal and in so far as applicable Family Contributing Service, provided that—
 - (i) any interval between so leaving and so re-entering Eligible Employment does not exceed two years (or such longer period as the Principal Employer may, in their discretion, allow in any exceptional case);
 - (ii) it would be possible for such former Contributor to have 5 years' Qualifying Service (including earlier service again reckoned as Normal Contributing Service) at Normal Retiring Age; and
 - (iii) any benefit paid or payable to the Contributor or his estate when he again leaves Eligible Employment or on death is reduced by the actuarial equivalent of the amount of benefits previously paid him under Rule 23 and if applicable Rule 32, together with compound interest thereon, except to the extent that such amount of benefits and interest as aforesaid is, within such period as the Committee may allow, paid to the Principal Scheme.
- (c) Any person to whom paragraph (a) or paragraph (aaa) of this Rule applies shall on re-entering Eligible Employment again become a Contributor liable for the contributions required in respect of his new Salary and eligible for the benefits provided by the Rules in respect thereof Provided that if the Contributor returns to employment in a grade not eligible for membership of the Scheme, Rule 24 as it had effect immediately before 6th April, 1978 shall apply to him as if he were remaining in Eligible Employment but ceasing to be employed in a grade eligible for membership of the Scheme.
- (d) If pursuant to paragraph (bb) of this Rule a Contributor's earlier service is reckoned as Normal and in so far as applicable Family Contributing Service, the Contributor shall on re-entering Eligible Employment and again becoming a Contributor (in addition to resuming payment of Normal Contributions) and if applicable paying Family Contributions under Rule 11(b):—
 - (i) (1) resume payment of contributions for any Added Years for Normal Benefits he was purchasing before he left Eligible Employment, and (2) pay as a lump sum or, at his option if he is more than five years under Normal Retiring Age, spread forward to a date five years before attaining Normal Retiring Age, the Added Contributions for Normal Benefits for the period between his leaving and re-entering Eligible Employment, accumulated at compound interest to the date of resumption of payments;
 - (ii) resume payment of any contributions which he was making under Rule 11 before he left Eligible Employment in respect of arrears of contributions for Normal Benefits; such contributions for the period between his leaving and re-entering Eligible Employment being dealt with as under sub-paragraph (i)(2) of this paragraph; and

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(iii) resume payment of contributions for Further Years of Family Contributing Service if he was making any such contributions or any contributions for Normal Family Benefits and Added Years for Normal Family Benefits immediately before he left Eligible Employment and is still married or has any Children under the age of 18 years. Any spread-forward contributions for Family Benefits he was paying before he left Eligible Employment shall be dealt with in the same way as spread forward contributions which fall to be dealt with under Rule 12(3)(a)(ii).

If it shall be shown to the satisfaction of the Committee that payment of any arrears which are due under this paragraph would result in hardship to the Contributor, the payment such arrears may be cancelled in whole or in part, subject to such modification of the benefits payable on Retirement as the Committee, after consultation with the Actuary, may decide; or the arrears may be allowed to accumulate as a loan in accordance with Rule 53AA.

- (dd) If before he left Eligible Employment a Contributor to whom paragraph (d) of this Rule applies was paying contributions for Further Years of Family Contributing Service or for Normal Family Benefits or Added Years for Normal Family Benefits and at the date of re-entering Eligible Employment he is no longer married and has no Children under the age of 18 years, but subsequently re-marries, that Contributor may exercise any option which would have been open to him on such re-marriage had he ceased to pay contributions under or by reference to Rule 12(2)(m) or if applicable Rule 12(3)(b) (including those provisions as they had effect before 6th April, 1978).
- (e) Benefits subsequently payable to a Contributor whose earlier service is again reckoned as Contributing Service pursuant to paragraphs (a) or (bb) of this Rule, or to the estate of such a Contributor, shall be reduced (in addition to any other diminution for which the Rules provide) by such amount as the Committee, acting on the advice of the Actuary, shall determine having regard to any payment in lieu of contributions under the 1959 Act made by the Employer or the Committee in respect of the Contributor on the previous occasion of his leaving Eligible Employment.
- (f) In the event of a Member to whom benefit under Rule 23(2), Rule 23(2A), Rule 23(3)(a) as it had effect before 6th April, 1980, Rule 47(1)(a) or Rule 47(2) as they both had effect on 31st December 1963 is payable, or has been paid, again becoming a Contributor before Normal Retiring Age such benefit shall not be payable to him or, as the case may be, no further such benefit shall be payable to him and the following provisions shall have effect—
- (i) if the Member was not entitled to, or did not elect to receive, a refund of contributions under Rule 23(2)(e), or if he received a refund of contributions under Rule 23(4) and if applicable Rule 32 and the Principal Employer exercise their discretion under paragraph (fff) of this Rule
- (a) his earlier service shall again be reckoned as Qualifying and Normal and in so far as applicable Family Contributing Service;
- (b) the provisions of paragraphs (d) and (dd) of this Rule as to the resumption of certain payments shall apply to him;
- (c) any benefit subsequently payable to him or to his estate shall be reduced by such amount as the Committee, acting on the advice of the Actuary, may determine in order to take account of the benefit under Rule 23(2), Rule 23(2A), Rule 23(3)(a) as it had effect before 6th April, 1980, Rule 47(1) or Rule 47(2) as they both had effect on 31st December 1963, already received

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- (ii) if the Member received a refund of contributions under Rule 23(4) and if applicable Rule 32 and the Principal Employer do not exercise their discretion under paragraph (fff) of this Rule
- (a) his earlier Normal and Family Contributing Service excluding that to which the refund of contributions was attributable shall again be reckoned as Normal and in so far as applicable Family Contributing Service provided that, if the Member had paid contributions for Added Years only part of which had been refunded, he shall be deemed to have purchased only so many Added Years as would have been purchased by that part of the contributions for Added Years not refunded;
- (b) his Actual Date of Entry shall be 6th April, 1975;
- (c) the provisions of paragraphs (d) (excluding sub-paragraph (ii) thereof) and (dd) of this Rule, shall apply to him except that (i) his percentage rate of Normal Contributions shall be that required in respect of his new Actual Date of Entry; (ii) no contributions for Added Years shall be payable and (iii) any resumption of Family Contributions shall not include any spread-forward contributions in respect of arrears of contributions for a period of service for which contributions were refunded under Rule 23(4);
- (d) any benefit subsequently payable to him or his estate shall be reduced by such amount as the Committee, acting on the advice of the Actuary, may determine in order to take account of the benefit under Rule 23(2), Rule 23(2A) or Rule 23(3)(a) as it had effect before 6th April 1980, already received.
- (ff) If a Member to whom benefit under Rule 23(2), Rule 23(2A), Rule 23(3)(a) as it had effect before 6th April, 1980, Rule 47(1)(a) or Rule 47(2) as they both had effect on 31st December 1963 is payable or has been paid re-enters Eligible Employment in a grade which is not eligible for membership of the Scheme, the Principal Employer may in their discretion allow him to resume the payment of contributions and, if they do so, paragraph (f) of this Rule shall apply to him, but otherwise Rule 24 (apart from paragraph (a) and (d) thereof) as it had effect immediately before 6th April, 1978 and as appropriate sub-paragraphs (f)(i)(c) or (f)(ii)(d) of this Rule shall apply to him;

Provided that—

- (i) the benefits payable under Rule 24 as it had effect immediately before 6th April, 1978 (before any reduction in accordance with the said sub-paragraph (f)(i)(c) or (f)(ii)(d)) shall not be less than would have been payable were it not for this paragraph
- (ii) if the Member subsequently enters a grade which is eligible for membership of the Scheme, paragraph (f) of this Rule shall apply to him.
- (fff) If a Member to whom paragraphs (f) or (ff) of this Rule applies and who received a refund of contributions under Rule 23(4) or where applicable, received a refund of contributions under proviso (iii) to Rule 32 again becomes a Contributor, his service to which that refund is attributable may, at the Principal Employer's discretion, be reckoned as Contributing Service subject to the same provisos as in sub-paragraphs (bb)(i) and (iii) of this Rule.

Provision of Information to IWS-SSS

49AA. *The Committee shall provide the trustee of IWS-SSS with all such information in their possession relating to those Members of the Scheme in respect of whom the Committee is required by Rule 47A to make a payment of the Transferable Sum to IWS-SSS as may reasonably be requested by the trustee of IWS-SSS.*

VI.

MISCELLANEOUS

General Discretion of Principal Employer and Committee

- (a) *Subject to the provisions of paragraph (d) below* the Principal Employer shall have power to grant, in special cases or classes of case, terms (of whatsoever nature and, in any case or class of case where the Principal Employer considers it appropriate, including prospective or contingent terms) differing from those otherwise applicable under the Rules, any additional cost subject to the terms of Clause 5 being paid to the Scheme in such manner as the Committee may decide after consulting the Actuary except where the Principal Employer consider and the Committee agree that no such payment is necessary.

Provided that

- (i) such terms shall include Equivalent Pension Benefit;
 - (ii) where, by virtue of such terms a Contributor becomes entitled to benefits that would otherwise exceed the Inland Revenue limits the excess shall not be payable; and
 - (iii) in accordance with the provisions of Clause 6(1)(iv) the Principal Employer shall not pay additional contributions pursuant to Clause 5(2) in respect of the additional cost of terms granted pursuant to this Rule to Members leaving service on or after 6 April 1993 but before 5 April 1998 (or such later date as may be agreed between the Principal Employer and the Committee) until the aggregate additional cost of such terms as assessed by the Actuary shall have exceeded £150 million (or such other sum as the Principal Employer and the Committee may from time to time agree); AND for this purpose the Actuary shall notify to the Principal Employer and the Committee in respect of each year after 6 April 1993 the additional cost of such terms granted in that year but so that if and when such aggregate additional cost shall have exceeded £130 million the Actuary shall make monthly notifications to the Principal Employer and the Committee of the additional cost of such terms granted in the preceding month.
- (b) *Subject to the provisions of paragraph (d) below* where in these Rules anything is required to be done within a certain period or before a certain date the Principal Employer or the Committee, as the case may be, may in their discretion extend such period or substitute a later date. Where, in these Rules, any contributions are required to be paid within a certain period or before a certain date and the Committee are satisfied that the payment of such contributions within that period or before that date would inflict hardship on the Contributor, or where any such contributions have not been paid on the date or within the period prescribed by the Rules and the Committee are satisfied that the failure to pay such contributions was due to no fault of the Contributor, they may, in their discretion, permit such contributions to be paid by such instalments over such period as they may determine or to accumulate as a loan under Rule 53AA.
- (c) Notwithstanding the generality of the foregoing upon the making by the Principal Employer of arrangements to meet such cost as the Committee may decide after consulting the Actuary the Committee shall, subject to Rule 69, grant supplements of such amount as may be agreed between the Principal Employer and the Committee to those persons in receipt of an annuity purchased under the terms of the National Coal

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Board Superannuation Scheme for Scientists. The said cost may be met by applying part of the unapplied portion as defined in sub-paragraph (6)(b)(i) of Clause 6 for the benefit of the Principal Employer.

- (d) *Without prejudice to any arrangements made under paragraph (a) or (b) of this Rule before the Guarantee Date the power of the Principal Employer under the said paragraphs (a) and (b) may after the Guarantee Date only be exercised with the prior consent of the Guarantor and with effect from the Closure Date the said paragraphs shall cease to have effect except in respect of benefit granted prior to that date.*

National Insurance

51.—(1) The Normal Contributions payable by a Contributor who became a Contributor before 1st January, 1975, shall be reduced by 3.8p (4.2p for women) a week if his Salary is payable weekly or 16.3p (17.9p for women) a month if his Salary is payable monthly

Provided that

- (d) the Normal Contributions of a Contributor who, having ceased to be a Contributor at any time, becomes a Contributor again at any time after 1st January, 1975 shall not be reduced for any period after he again becomes a Contributor unless he ceased to be a Contributor on ceasing to be employed in an eligible grade and remained in Eligible Employment, and
- (e) if a Contributor whose contributions are reduced in accordance with this Rule (including a Contributor who has exercised an option as aforesaid) so elects in writing before 30th June, 1975 (or, in the case of a Contributor not liable to pay contributions for any period including 1st January, 1975, within 3 months of the beginning of the first period for which he subsequently becomes liable to pay contributions) no reduction shall be made in respect of any period commencing on or after 1st January, 1975.

(2) As from the date on which a retirement pension under the 1965 Act becomes payable to the Contributor or, if later, the date of his retirement from Eligible Employment, there shall be deducted from the pension payable to him a sum ascertained in accordance with paragraph (3) of this Rule in respect of any period of Contributing Service

- (a) for which the Contributor's Normal Contributions have been reduced in accordance with this Rule or a payment under Rule 35 has been correspondingly reduced, or
- (b) which is comprised in a Back Service Credit granted under Rule 44(b)(i) as it had effect before 6th April, 1978 to a Contributor whose Actual Date of Entry was on or after 6th July, 1956 in respect of service in employment other than Eligible Employment if the Transfer Value received by the Principal Scheme was reduced because of a modification of the benefits provided by the Scheme from which the Contributor transferred, such modification being referable, or agreed by the Principal Employer and the Contributor's former employer to be referable, to benefits other than graduated retirement benefit under the 1965 Act. But no deduction shall be made in respect of any number of years exceeding forty.

(3) The amount of the deduction to be made in accordance with paragraph (2) of this Rule shall be the sum set out in the second or third column of Appendix III as the case may be against the age of the Contributor at his Actual Date of Entry multiplied by the number of years Contributing Service (including fractions of a year) in respect of which the deduction is to be made

Provided that

- (a) the amount of the deduction:—

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- (i) shall not exceed such amount as will reduce the pension payable to the Contributor to the minimum rate of pension to which proviso (i) to Rule 21(a) refers or, as the case may be, Rule 22(aa) provides;
 - (ii) in respect of any period of Contributing Service after 5th April, 1978 to which paragraph (2)(a) of this Rule applies shall not exceed such amount as would have resulted from the exclusion from any amount of Salary in respect of that period by reference to which that pension is calculated of an amount which if expressed at a weekly rate is equivalent to one and a half times the lower earnings limit (within the meaning of the 1975 Act) in force during that period, and
- (b) for the purposes of Appendix III
- (i) any period in respect of which a Contributor's contributions are required to be reduced under paragraph (2)(b) of this Rule shall be deducted from his age at his Actual Date of Entry, and
 - (ii) the age of a Contributor who has exercised an option under paragraph (1)(c) of this Rule shall be his age at the anniversary of his Actual Date of Entry with effect from which he exercised the option and not his age at his Actual Date of Entry.

Liability for Taxes on Death

52. If any liability to any tax or duty payable by reason of death for which the Committee are liable shall arise in respect of any benefits falling to be paid to any person under the Scheme and the Committee are entitled by law to recover the amount of such tax or duty from the person entitled to such benefit then the Committee may deduct that amount (including any interest payable thereon) from such benefit and account for the same to the proper authority before paying such benefit to the person entitled or may postpone payment of such benefit until the liability for such tax or duty and any interest thereon has been paid or provided for to the Committee's satisfaction.

Method of calculating interest

- (a) Save as provided in Rule 56(e), interest mentioned in these Rules shall be computed at the rate of 2.5 per cent per annum, without deduction for income tax.
- (b) Compound interest on any contribution or other sum of money to be calculated at the rate provided by this Rule with yearly rests from the 6th April following the date when the contribution or benefit was paid or the period in respect of which it was or would have been payable, as the case may require, and no interest to be added in respect of the year beginning on the 6th April in which the contribution or benefit was or would have been payable.

Contributions accumulated as a loan against Normal Benefits

53AA. The following provisions shall apply where any contributions are permitted under these Rules to accumulate as a loan:—

- (i) The contributions shall accumulate at compound interest as a loan charged on the Normal Benefits payable on the Contributor's death, withdrawal or retirement, as the case may be, and deductible therefrom.
- (ii) If such loan, including compound interest (or the aggregate of such loans, if more than one) at any time exceeds a sum equal to two-eightieths of the Contributor's Pensionable Salary in respect of each year of his Contributing

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Service to that date, the Contributor or his personal representatives shall repay the excess on demand.

- (iii) The Contributor may at any time on giving three months' notice to the Committee repay the amount of the loan or any part thereof not less than one-quarter with interest accumulated to the date of payment.
- (v) The Committee may at their discretion notify the Contributor or his personal representatives that they will not require repayment of such loan, and in that case the Normal Benefits which would otherwise have become payable on the death, retirement or withdrawal of the Contributor shall not be payable, but there shall be payable to him or to his personal representatives benefits equivalent to those Normal Benefits, reduced by an amount equal to the amount of the loan and interest thereon then outstanding.

Evidence of life of Pensioner

54. Every Contributor, after becoming entitled to annual superannuation benefits, to furnish from time to time such evidence of his being alive as the Committee may require and, in default thereof, to be liable to have any further payments of benefits suspended as the Committee may think fit.

Address of Pensioner

55. Every Contributor to give notice in writing to the Secretary of his place of residence at the time of becoming entitled to annual superannuation benefits and, thereafter, to give immediate notice of any change of residence.

Payment of Superannuation Benefits

- (a) Lump sums payable to a Member under the Scheme shall, subject as provided in the 1975 Act and any regulations for the time being in force under it, be paid within twenty-eight days after the day on which he becomes entitled thereto, subject to proof of title, unless he may then re-enter Eligible Employment in a grade eligible for membership of the Scheme in the circumstances specified in Rule 27(1), in which case no lump sum shall be payable to him until such time if any as the Committee are satisfied that he will not or cannot so re-enter Eligible Employment.
- (b) Annual payments to be made to a Member or his Dependants under the Scheme to be paid by equal monthly instalments in arrear with proportion to or from date of death Provided that where the rate of the annual payment due to a Member does not exceed the rate at which Equivalent Pension Benefit is payable to him under Rule 20AB(1)(c) it may be paid by equal quarterly instalments or annual payments on such dates as the Principal Employer may decide with proportion to date of death.
- (c) *Before the Guarantee Date* superannuation benefits to be payable at such offices of the Principal Employer as the Principal Employer may approve. *On and from the Guarantee Date* superannuation benefits to be payable at such offices or other place or in such manner as the Committee may with the consent of the Guarantor from time to time determine. Any payment made through the post, or otherwise at the written request of the person entitled thereto, to be at his risk.
- (d) Lump sums payable on Retirement may, if the Member so requests not earlier than two months prior to Retirement and the Principal Employer agree, be paid to any person authorised in writing by the Member to receive payment on his behalf. The receipt of the person to whom any money is so paid shall be a sufficient discharge for the payment of the amount mentioned therein.

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- (e) If there should be delay in the payment of any benefits under the Scheme the Committee may, at their discretion, pay interest on such benefits for such period and at such rate as they may from time to time determine.

Deduction in respect of income tax from refunds of contributions

57. The Committee being liable to the Commissioners of Inland Revenue for income tax in respect of any contributions (with any additions of interest thereto) returned to Contributors during their life-time or any lump sum paid in commutation or in lieu of an annuity, to be at liberty to deduct from any such sums an amount not exceeding any income tax in respect thereof for which the Committee become so liable Provided that the amount so deducted shall not be such as would make the sum returnable to a Contributor, before taking into account any reduction for which provision is made by any of Rule 20AB(1)(c), Rules 24(a)(i), 24(bb) or 24(cc) as they had effect before 6th April 1978 or Rules 38A or 49(a), less than the contributions paid by him to the Scheme in respect of the Contributing Service to which the return of contributions relates except in the case of Added Years purchased by a single lump sum payment after 31st December, 1949.

Fraudulent Contributors' Rights to Benefits

58. The right of each Member to receive any benefit under the Scheme is subject to the qualification that any sum in respect of a monetary obligation due to his Employer arising out of a criminal or fraudulent act or omission by the Member may at the discretion of the Committee be withheld from, set off against, or charged upon any benefit payable to him or his personal representatives and reimbursed to his Employer Provided that

- (i) the sum recovered shall be limited to the actuarial value of the Member's actual or prospective benefits at that time (insofar as these do not include benefits derived from a Transfer Value Payment in respect of previous employment) or the amount of the obligation whichever is less (subject to any different agreement in writing between the Employer and the Member); and
- (ii) the Committee shall issue a certificate to the Member showing the amount recovered and its effect on his benefit or prospective benefit; and
- (iii) if the Committee decide to withhold any benefit from a Member and there is any dispute as to the amount to be recovered, the Committee shall not put their decision into effect until such time as the obligation has become enforceable under an order of a competent Court or the award of an arbitrator or in Scotland an arbiter to be appointed (failing agreement between the parties) by the Sheriff. The Committee shall have the power to suspend the payment of any benefit until the amount of the Member's monetary obligation has been ascertained.

Superannuation benefits not assignable

59. Benefits payable under the Scheme not to be assignable or chargeable, except for the purposes of any Rule under which contributions are permitted to be accumulated as a loan in accordance with Rule 53AA, and to cease to be payable to the person who but for this provision would be entitled thereto in the event of the bankruptcy of such person, or upon the execution of an assignment for the benefit of his creditors, or of any attempt to mortgage, charge or otherwise assign the same to any person. In any of these events and whether or not the benefits had previously become payable, the Committee to have power in their absolute discretion to pay or apply such benefits or any part thereof for the benefit of the Member and his Dependants or any of them.

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Mental Incapacity of Pensioner

60. If any Member is, in the opinion of the Principal Employer's Medical Adviser, unable to act (whether because of mental disorder or for any other reason) the Committee may in their discretion pay any benefit to which he is entitled under the Scheme to any other person for the benefit of the Member and his dependants or any of them. The receipt of the person to whom any money is so paid shall be sufficient discharge for the payment of the amount mentioned therein.

Payment to Personal Representatives or Dependants

61. On death of a Member, any amount payable under the Principal Scheme to his estate or which accrued due to him under the Principal Scheme during his lifetime and was unpaid at the time of his death (less any sum paid or payable in pursuance of a nomination under Rule 62) to be paid on production of Probate or Letters of Administration to his personal representatives Provided that if the amount to be paid does not exceed £1500 or such higher amount as may have been specified for the time being by order under Section 6 of the Administration of Estates (Small Payments) Act 1965 it may be paid at the discretion of the Committee without the production of Probate or Letters of Administration to any person who has paid the expenses incurred for the funeral of the Member or to any one or more of the Dependants of the Member. If the amount to be paid exceeds £1500 or such higher sum as aforesaid but the Member's personal representatives do not send a written claim to the Secretary within twelve months after the date of the Member's death, such amount may be paid to or expended for the benefit of any one or more of the Dependants of the Member as the Committee may in their absolute discretion think fit. The receipt of the person to whom any money is so paid to be a sufficient discharge for the payment of the amount mentioned therein.

Payments to nominees of Contributors who die before retirement

- (a) A Contributor may make nominations for amounts not exceeding £500 in the aggregate to be paid, in the event of his death before Retirement, to a duly appointed nominee or nominees out of any sum payable under the Rules to his estate.
- (b) A nomination for the purposes of this Rule shall be in such form as the Committee may prescribe or approve and be lodged with the Secretary before the death of the Contributor.
- (c) A nomination for the purposes of this Rule shall be revoked
 - (i) by the Contributor's making an election under Rule 28A, or
 - (ii) by the subsequent marriage of the Contributor unless the nomination is expressed to be made in contemplation of marriage, or
 - (iii) by notice in writing signed by the Contributor and attested, and lodged with the Secretary before the Contributor's death,

A nomination having effect at the date a person ceased to be a Contributor shall also have effect on and from the date on which such person again becomes a Contributor unless and until it is revoked in manner aforesaid.
- (d) The receipt of the person to whom any money is paid pursuant to a subsisting nomination made in accordance with this Rule, or, in the case of a nominee who is a minor, of any other person to whom the Committee may pay money for the benefit of the infant or minor, shall be a sufficient discharge for the payment of the amount mentioned therein.

Copies of Scheme and Rules and Explanatory Literature

63. The Secretary shall send or deliver to any Member on request and free of charge one copy of the Scheme and the Rules or, at the option of the Member one copy of any simplified edition of the Scheme and the Rules for the time being issued under the authority of the Committee. Any Member may on request obtain from the Secretary additional copies of the Scheme and the Rules or of any such simplified edition, or both, on payment of 5p for each copy.

Notices

- (a) Any notice to be given to a Member under or pursuant to the Scheme or the Rules may be given by letter addressed to the person for whom it is intended at the office or premises at which he is for the time being employed or at his last known place of residence and delivered there or sent by prepaid post. In the latter case it shall be deemed to have been given 48 hours after the letter containing the same is posted.
- (b) Any notice to be given to the Secretary under or pursuant to the Scheme or the Rules to be in writing and addressed to him *prior to the Closure Date* at the National Headquarters of the Principal Employer, (*and after the Closure Date at such office or other place as the Committee may from time to time determine*) the envelope being marked “Superannuation Scheme—Confidential” and delivered there or sent by prepaid post.
- (c) Any notice required to be exhibited under or pursuant to the Scheme or the Rules to be *before the Closure Date* posted on notice boards at National and other Headquarters of the Principal Employer, at the collieries of the Principal Employer, and at such other establishments as the Committee may determine, but accidental failure to exhibit such notice at one or more places not to render the notice invalid. *On and from the Closure Date such notices shall be posted on such notice boards as the Committee may determine or otherwise circulated in such manner as the Committee determines to be appropriate.*

Forms

- (a) Every Member to fill in and deliver to the Secretary an application form, together, in each case, with a certificate of his birth or such other evidence of his age and if he is a married male Member such evidence of his marriage as may be required by the Committee. Forms for this purpose to be approved by the Principal Employer as may be required from time to time.
- (b)
 - (i) Every Member before becoming a Contributor in respect of any Added Contribution, and if he is a male Member in respect of any contributions under Rule 12 or if she is a female Member in respect of any Family Contributions, to fill in and deliver to the Secretary an application form, together with such evidence of his marriage, as the Committee may require.
 - (ii) Every Contributor contributing for Family Benefits shall register with the Committee the name and date of birth of his spouse and of children who might become entitled to benefits. No claim shall be admitted in respect of any child not so registered except at the discretion of the Committee, and no claim shall be admitted in respect of a spouse until production of evidence that she is the surviving spouse of the Contributor or former Contributor except at the discretion of the Committee.
- (c) Every Member to exercise any option given by the Rules or any election conferred by the Rules other than one conferred by Rule 28A, within three months of his becoming

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entitled so to do or within such longer or shorter period as the Rules may allow, or such longer period as the Committee in their discretion, may allow and on exercising such option or election to fill in and deliver to the Secretary a notice in writing.

- (d) The appropriate forms for giving any notice exercising any option or election or making any request under the Rules may be obtained on request from the Secretary *prior to the Closure Date* at the National Headquarters of the Principal Employer or from any other Headquarters of the Principal Employer, *and on and after the Closure Date at such office as the Committee may from time to time determine.*
- (e) No Benefits under the Scheme (other than Equivalent Pension Benefit or a Guaranteed Minimum Pension) shall be payable to any Member, or, unless the Committee otherwise decide, to any other person by reference to his membership of the Scheme, so long as any entrance, exchange or application form which the Member is required by the Rules to fill in and deliver to the Secretary is not properly filled in and delivered to the Secretary together with any necessary supporting evidence; and Equivalent Pension Benefit or a Guaranteed Minimum Pension shall not be payable to any Member unless his entitlement thereto is established.

Determination of Medical Questions

67. Any person who is aggrieved by the determination of the Principal Employer's Medical Adviser upon any matter as to which, under the Rules, his opinion or certificate is required to be given may require the Committee to refer the matter to an independent Medical Consultant appointed or approved by the Committee and thereupon the matter shall be so referred. The written determination of such independent Medical Consultant upon the matter so referred shall be final and have effect as the opinion or certificate of the Principal Employer's Medical Adviser. Any person so requiring the Committee to refer a matter to an independent Medical Consultant shall pay the costs of the reference if the determination of the Consultant upholds the determination of the Principal Employer's Medical Adviser.

Limitation on Benefits

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

(2) The Member's Aggregate Retirement Benefit shall not exceed:—

- (a) in respect of a Pre 1987 Member or a 1987 Member:
 - (i) on retirement at or before Normal Retiring Age, except before Normal Retiring Age on grounds of ill-health under Rule 22, a pension of 1/60th of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
 - (ii) on retirement on grounds of ill-health under Rule 22, the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph as if the Member had remained in Relevant Service until Normal Retiring Age, Final Remuneration being computed as at the actual date of retirement;
 - (iii) on retirement after Normal Retiring Age, a pension of the greatest of:
 - (I) the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph on the basis that the actual date of retirement was the Member's Normal Retiring Age;

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

Final Remuneration being computed in respect of (I) and (III) as at the actual date of retirement; or
 - (iv) on ceasing to be in Eligible Employment before Normal Retiring Age, a pension of 1/60th of Final Remuneration for each year of Relevant Service up to the date of such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased at the rate of 5 per cent compound for each complete year or, if greater, in proportion to any increase in the Index which has occurred between the date of such cessation and the date on which the pension begins to be payable and may be further increased so as to comply with the requirements of the Department of Social Security.
- (b) in respect of a New Tax Regime Member or a 1989 Member:
- (i) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Age on grounds of ill-health under Rule 22, a pension of 1/60th of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
 - (ii) on retirement at any time before Normal Retiring Age on grounds of ill-health under Rule 22 a pension of the amount which could have been provided at Normal Retiring Age in accordance with sub-paragraph (b)(i) of this paragraph, Final Remuneration being computed as at the actual date of retirement; or
 - (iii) on ceasing to be in Eligible Employment before Normal Retiring Age, a pension of 1/60th of Final Remuneration for each year of Relevant Service up to the date of such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased at the rate of 5 per cent compound for each complete year or, if greater, in proportion to any increase in the Index which has occurred between the date of such cessation and the date on which the pension begins to be payable and may be further increased so as to comply with the requirements of the Department of Social Security.
 - (iv) Benefits for a New Tax Regime Member or a 1989 Member are further restricted to ensure that his total retirement benefit from the Scheme and from any Associated Scheme or Connected Scheme does not exceed a pension of 1/30th of the Permitted Maximum for each year of Relevant Service, subject to a maximum of 20/30ths.
 - (v) For the purpose of calculating the Aggregate Retirement Benefit or the total retirement benefit in sub-paragraphs (b)(i) to (iv) above, the pension equivalent of any Lump Sum Retirement Benefit is 1/12th of its total cash value.
- (3) The Member's Lump Sum Retirement Benefit shall not exceed:
- (a) in respect of a Pre 1987 Member or a 1987 Member:

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- (i) on retirement at or before Normal Retiring Age, except before Normal Retiring Age on grounds of ill-health under Rule 22, 3/80ths of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
 - (ii) on retirement on the grounds of ill-health under Rule 22 the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph as if the Member had remained in Relevant Service until Normal Retiring Age, Final Remuneration being computed as at the actual date of retirement;
 - (iii) on retirement after Normal Retiring Age, the greatest of:
 - (I) the amount calculated in accordance with sub-paragraph (a)(i) of this paragraph on the basis that the actual date of retirement was the Member's Normal Retiring Age;
 - (II) the amount which could have been provided at Normal Retiring Age in accordance with sub-paragraph (a)(i) of this paragraph together with an amount representing interest thereon; and
 - (III) where the Member's total Relevant Service has exceeded 40 years, the aggregate of 3/80ths of Final Remuneration for each year of Relevant Service before Normal Retiring Age (not exceeding 40 such years) and if a further 3/80ths of Final Remuneration for each year of Relevant Service after Normal Retiring Age, with an overall maximum of 45 reckonable years. Final Remuneration being computed in respect of (I) and (III) as at the actual date of retirement; or
 - (iv) on ceasing to be in Eligible Employment before Normal Retiring Age, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Service prior to such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date the Member ceased to be in Eligible Employment and the date on which the benefit is first paid but only if and to the same extent as the total benefits have been increased under sub-paragraph (b)(iii) of paragraph (2).
- (b) in respect of a New Tax Regime Member or a 1989 Member:
- (i) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Age on grounds of ill-health under Rule 22, 3/80ths of Final Remuneration for each year of Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
 - (ii) on retirement at any time before Normal Retiring Age on grounds of ill-health under Rule 22 the amount which could have been provided at Normal Retiring Age in accordance with sub-paragraph (b)(i) of this paragraph, Final Remuneration being computed as at the actual date of retirement;
 - (iii) on ceasing to be in Eligible Employment before attaining age 75, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Service prior to such cessation (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date the Member ceased to be in Eligible Employment and the date on which the benefit is first paid.
- (4) The lump sum benefit (exclusive of any refund of the Member's own contributions and any interest thereon) payable on the death of a Member while in Relevant Service or (having

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left Relevant Service with a deferred pension) before the commencement of his pension, shall not, when aggregated with all like benefits under Associated Schemes, exceed the greater of:

- (i) £5,000; and
- (ii) 4 times the greater of the annual rate of the Member's Remuneration at the date of death and his Final Remuneration.

(5) Any pension for a Dependant (excluding any pension arising from the surrender of any part of the Member's pension pursuant to Rule 34 or any pension resulting from Relevant Service by that Dependant), when aggregated with the pensions payable to that Dependant under all Associated Schemes, shall not exceed an amount equal to 2/3rds of the Aggregate Retirement Benefit:—

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

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

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

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

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

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

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Member's 70th birthday had been specified in the Rules as his Normal Retiring Age, so as not to treat as service after Normal Retiring Age any service before the Member reaches the age of 70.

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

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

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

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

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treated as a Fluctuating Emolument (providing it was earned or qualified for prior to the Relevant Date). In these circumstances it may be included provided the yearly average of three or more consecutive years begins no later than the commencement of the basic pay year; or

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

Provided that:—

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

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

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

FIRST SCHEDULE

Calendar year (or period) in which member ceased to be a Contributor (1)	Percentage increase in pension (2) %
1960 or earlier	30
1961	29
1962	28
1963	27
1964	26
1965	25

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Calendar year (or period) in which member ceased to be a Contributor (1)	Percentage increase in pension (2) %
1966	24
1967	23
1968	22
1969	21
1970	20
1971	19
1972	18
1973	17
1974	16
1975	15
1976	14
1977	13
1978	12
1979	11
1980	10
1981	9.5
1982	9
1983	8.5
1984	8
1985	7.5
1986	7
1987	6.5
1988	6
1989	5.5
From 1st January 1990 to 20th June 1990 (both dates inclusive)	5

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SECOND SCHEDULE

Calendar year (or period) in which member ceased to be a Contributor (1)	Additional Percentage increase in pension (2) %
1960 or earlier	15
1961	14
1962	13
1963	12
1964	11
1965	10
1966	9
1967	8
1968	7
1969	6
1970	5
1971	4.5
1972	4
1973	3.5
1974	3
1975	2.5
1976	2
1977	1.5
1978	1
1979	0.5

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are concerned with the British Coal Staff Superannuation Scheme which was established under regulations made under section 37 of the Coal Industry Nationalisation Act 1946.

The Regulations—

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