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STATUTORY INSTRUMENTS

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**1996 No. 1288**

**COAL INDUSTRY**

**The Redundant Mineworkers (Payments Schemes)  
(Amendment and Consolidation) Order 1996**

*Made* - - - - *13th May 1996*

*Coming into force* - - *14th May 1996*

The Secretary of State, in exercise of the powers conferred on him by section 7(1) and (7) of the Coal Industry Act 1977<sup>(1)</sup>, hereby makes the following Order, a draft of which has been laid before the Commons House of Parliament and has been approved by that House in accordance with section 7(7) of that Act:—

**Citation and commencement**

1. This Order may be cited as the Redundant Mineworkers (Payments Schemes) (Amendment and Consolidation) Order 1996 and shall come into force on the day after the day on which it is made.

**Interpretation**

2. In this Order:—

“the 1983 Order” means the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1983<sup>(2)</sup>;

“the 1984 Order” means the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1984<sup>(3)</sup>;

“the 1986 Order” means the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1986<sup>(4)</sup>

**Revocation of the 1983, 1984 and 1986 Orders**

3. Save as hereinafter provided the 1983, 1984 and 1986 Orders are hereby revoked.

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(1) 1977 c. 39; section 7(1) was amended by the Coal Industry Act 1980 (c. 50), section 7(1), and extended by section 7(2) of that Act and by the Coal Industry Act 1985 (c. 27), section 3(1).

(2) S.I. 1983/506; relevant amending instruments are S.I. 1984/889, S.I. 1986/625, S.I. 1987/1258, S.I. 1988/1252, S.I. 1989/1201, S.I. 1994/2567 and S.I. 1995/829.

(3) S.I. 1984/457; amending instruments are S.I. 1984/1889, S.I. 1985/558, S.I. 1986/625, S.I. 1987/1258, S.I. 1988/1252, S.I. 1989/1201, S.I. 1994/2567 and S.I. 1995/829.

(4) S.I. 1986/625; amending instruments are S.I. 1987/1258, S.I. 1988/1252, S.I. 1989/1201, S.I. 1994/2567 and S.I. 1995/829.

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### **Transitional provision**

4. The 1983, 1984 and 1986 Orders shall continue to have effect and remain in force for the purposes of Articles 1, 2, 3, 4, 9(1)(a), 9(2), 9(3), 9(4), 10, 11, 12, 13 and 14 in their Schedules, including Appendices 1,2 and 3 to those Schedules, until the end of 6th October 1996.

### **Application of the Scheme**

5. The Scheme set out in the Schedule to this Order shall have effect in relation to the classes of persons prescribed therein.

Department of Trade and Industry  
13th May 1996

*Richard Page*  
Parliamentary Under Secretary of State for Small  
Business, Industry and Energy

## THE SCHEDULE

Article 5

### THE REDUNDANT MINEWORKERS PAYMENTS SCHEME

#### *Definitions*

**1.** In this Schedule, unless the context otherwise requires:—

“appropriate percentage” means the percentage by which the income support personal allowance has been varied from that prescribed in the twelve months preceding the first Monday in the tax year to that payable in the twelve months from the first Monday in the tax year;

“capable of work” means not incapable of work for the purposes of the 1992 Act and regulations made under it;

“child benefit” means child benefit payable under the 1992 Act and regulations made under it;

“coal industry employee” has the meaning assigned thereto in Article 2;

“coal industry employer” in relation to a coal industry employee means the Corporation, one of their subsidiaries, a coking plant operator, a person or persons responsible for the payment of the remuneration of a workmen’s employee, a small mine licensee, a licensed operator (within the meaning of the Coal Industry Act 1994<sup>(5)</sup>) and any other person employing him prior to 1st January 1947 at a coal mine, a coking plant or at a prescribed place;

“coal industry employment” means employment with one or more coal industry employers;

“coking plant operator” means a person carrying on in Great Britain a business which consists wholly or mainly of the production in coke ovens of coke by high temperature carbonisation of coal;

“a contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act<sup>(6)</sup>;

“the Corporation” means the British Coal Corporation;

“a day of incapacity for work” means a day of incapacity for work for the purposes of section 30C(1)(a) of the 1992 Act;

“earnings” means earnings as defined in sections 89 and 122 of the 1992 Act;

“employed” means gainfully employed either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E, or which would be so chargeable if the person holding the office was liable to assessment and charge to income tax under the Income Tax Acts;

“employment” includes any trade, business, profession, office or vocation and “employed” has a corresponding meaning;

“incapacity benefit” means incapacity benefit payable under sections 30A, 40 or 41 of the 1992 Act and by virtue of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995<sup>(7)</sup>;

“income support personal allowance” means the amount prescribed as the personal allowance for a single claimant aged not less than 25 in paragraph (1)(e) of Schedule 2 to the Income Support (General) Regulations 1987<sup>(8)</sup>;

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<sup>(5)</sup> c.21.

<sup>(6)</sup> 1995 c. 18.

<sup>(7)</sup> S.I. 1995/310.

<sup>(8)</sup> S.I. 1987/1967.

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“the Income Tax Acts” has the meaning given to it by section 83 I(1)(b) of the Income and Corporation Taxes Act 1988<sup>(9)</sup>;

“the Jobseekers Act” means the Jobseekers Act 1995;

“Mineworkers' Pension Scheme” means the Mineworkers' Pension Scheme having effect as set out in the Schedule to the Mineworkers' Pension Scheme (Modifications) Regulations 1994<sup>(10)</sup>;

“National Coal Board Industrial Death and Retirement Scheme” means the National Coal Board Industrial Death and Retirement Scheme established by the Corporation pursuant to a resolution dated 6th March 1970<sup>(11)</sup>;

“the 1983 Scheme” means the Redundant Mineworkers Payments Scheme set out in the Schedule to the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1983;

“the 1984 Scheme” means the Redundant Mineworkers Payments Scheme set out in the Schedule to the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1984;

“the 1986 Scheme” means the Redundant Mineworkers Payments Scheme set out in the Schedule to the Redundant Mineworkers and Concessionary Coal (Payment Schemes) Order 1986;

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992<sup>(12)</sup>;

“the overlapping benefits regulations” means the Social Security (Overlapping Benefits) Regulations 1979<sup>(13)</sup>;

“period of incapacity for work” means a period of incapacity for work for the purposes of section 30C(1)(b) of the 1992 Act;

“prescribed place” means a place of a class specified in Appendix 1;

“redundant person” has the meaning assigned thereto in Article 4;

“relevant date” has the same meaning as in section 90(1) of the Employment Protection (Consolidation) Act 1978<sup>(14)</sup>;

“self-employed” means gainfully employed otherwise than under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E, or which would be so chargeable if the person holding the office was liable to assessment and charge to income tax under the Income Tax Acts (whether or not also employed in such employment);

“sickness benefit” means sickness benefit payable under section 3 1 of the 1992 Act before 13th April 1995<sup>(15)</sup>;

“small mine licensee” means any individual working coal by virtue of the grant of a gale in the Forest of Dean or in any other part of the Hundred of St Briavels and any person or body of persons for the time being engaged in coal mining activities by virtue of a licence granted by the Corporation under section 36(2)(a) of the Coal Industry Nationalisation Act 1946<sup>(16)</sup>;

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(9) 1988 c. 1.

(10) S.I. 1994/2577.

(11) Section 1 of the Coal Industry Act 1987 (c. 3) provides that the body corporate with the name the National Coal Board shall be known as the British Coal Corporation.

(12) 1992 c. 4.

(13) S.I. 1979/597.

(14) 1978 c. 44.

(15) Section 31 of the 1992 Act was repealed by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 11 and Schedule 1, paragraph 7.

(16) 1946 c. 59: such licences may continue to have effect, see section 25 of the Coal Industry Act 1994, c. 21.

“the Staff Superannuation Scheme” means the British Coal Staff Superannuation Scheme having effect as set out in the Schedule to the British Coal Staff Superannuation Scheme (Modification) Regulations 1994<sup>(17)</sup>;

“state retirement pension” means a basic Category A retirement pension under section 44 of the 1992 Act;

“subsidiary” shall be construed in accordance with section 736 of the Companies Act 1985<sup>(18)</sup>;

“tax year” means a year commencing on the 6th April and ending on the following 5th April;

“week” means a period of seven days beginning with midnight between Saturday and Sunday;

“workmen’s employee” means any person who is employed at a coal mine or a prescribed place being a person remunerated out of moneys provided by deductions from the wages of or contributions of employees of a coal industry employer; and,

“year” means a period of twelve calendar months

### *Eligibility for payments*

#### **2. –**

(1) Any person who was on the relevant date employed at a coal mine or a prescribed place within Part 1 of Appendix 1 being either–

(a) a person so employed by the Corporation, by one of their subsidiaries, or by a small mine licensee–

(i) in a grade which renders him eligible for membership of the Mineworkers' Pension Scheme; or

(ii) in a grade which is specified in Appendix 2; or

(b) a person so employed as a workmen’s employee,

shall, subject as hereinafter provided, be eligible for payments under this Scheme; such a person is hereinafter referred to as a “coal industry employee”.

(2) Any person who was on the relevant date employed by a coking plant operator at a coking plant or prescribed place within Part 2 of Appendix 1, who–

(i) was a daily paid industrial worker employed in a capacity described in the first Schedule to an agreement on the national grading structure for the coke and by-product industry made on 5th April 1956 between the Corporation and National Union of Mineworkers; or

(ii) was weekly paid industrial staff who was, or would if employed in the same capacity by a subsidiary of the Corporation being a coke plant operator be, in a grade within the first Schedule to an agreement dated 1 st September 1965 between the Corporation and National Union of Mineworkers; or

(iii) was employed in a grade specified in numbers 3 to 10 inclusive of Appendix 2 or in a capacity equivalent thereto,

shall, subject as hereinafter provided, be eligible for payments under this Scheme and is also hereinafter referred to as a “coal industry employee”.

### *Age and redundancy requirements*

**3.** A coal industry employee shall not be eligible for payments under this Scheme unless–

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<sup>(17)</sup> S.I. 1994/2576.

<sup>(18)</sup> 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989, c. 40.

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- (a) he is a redundant person and, in the case of an employee employed at a prescribed place, became a redundant person by reason of the cessation or reduction of the services or facilities at that place, being services or facilities ancillary to one or more coal mines or coking plants, in consequence of the closure of one or more of such mines or plants or the reduction in the number of persons employed thereat;
- (b) when he became a redundant person the relevant date fell on or after 6th April 1983 and before 29th March 1987; and
- (c) on the relevant date he had attained the age of 50 and had not attained the age of 65 in the case of a man or 60 in the case of a woman.

*Requirements of a redundant person*

**4. –**

(1) A coal industry employee shall be a redundant person within the meaning of this Scheme if he has completed a total period of not less than 10 years' coal industry employment, and in consequence of his dismissal on the relevant date by a coal industry employer, he either–

- (a) became entitled to receive a redundancy payment under Part VI of the Employment Protection (Consolidation) Act 1978 from that employer; or
- (b) would have become entitled to receive such a payment if the question whether he had been continuously employed by his employer for a period of two years ending with the relevant date had fallen to be ascertained in accordance with Appendix 3 hereof and if he had either–
  - (i) during such period of two years left the employment of a coal industry employer and not later than one week after leaving such employment entered into employment with that or any other coal industry employer; or
  - (ii) become entitled previously to receive such a payment from a coal industry employer and had entered into employment with that or any other coal industry employer not later than one year after becoming so entitled.

(2) Appendix 3 hereof shall apply for ascertaining the length of a coal industry employee's total period of coal industry employment for the purposes of paragraph (1) of this Article.

*Benefits payable*

**5. –**

(1) Subject as hereinafter provided, where in any week a coal industry employee eligible for payments under this Scheme is not employed or self-employed or is employed or self-employed for less than 16 hours, the Secretary of State may pay to him in respect of any day of that week, provided that he is capable of work on that day, the following benefits:

- (a) from 7th October 1996 until 8th April 1997 payments at the rate of £48.25 per week and from 8th April 1997 until the first Monday in the next tax year payments at the weekly rate calculated by increasing £48.25 by the appropriate percentage and in each subsequent period commencing on the first Monday in the tax year payments at the weekly rate calculated by increasing the rate payable in the preceding period by the appropriate percentage;
- (b) if he:
  - (i) is residing with his spouse; or
  - (ii) is residing with a person looking after his child or children for whom he is entitled to child benefit; or

- (iii) is living separately from and is contributing not less than the applicable rate towards the maintenance of his spouse; or
- (iv) is living separately from and is contributing not less than the applicable rate towards the maintenance of a person who is looking after his child or children for whom he is entitled to child benefit,

then in addition to the benefit payable under sub-paragraph (a) above, a further benefit shall be payable from 7th October 1996 until 8th April 1997 at the rate of £529.75 per week and from 8th April 1997 until the first Monday in the next tax year payments at the weekly rate calculated by increasing £29.75 by the appropriate percentage and in each subsequent period commencing on the first Monday in the tax year payments at the weekly rate calculated by increasing the rate payable in the preceding period by the appropriate percentage provided that the spouse or person does not have during that week weekly earnings equal to or greater than the applicable rate for that week and in this sub-paragraph “the applicable rate for that week” means £29.75 or such other sum as is payable under this sub-paragraph.

(2) For the purposes of paragraph (1) above, payments in respect of any day shall be one seventh of the weekly rate for the purposes of sub-paragraph (1)(a) or sub-paragraph (1)(b) above, as the case may be.

#### *Incapacity*

6. Subject as hereinafter provided—

(1) Where in any week a coal industry employee eligible for payments under this Scheme is on any day not entitled to incapacity benefit for either of the reasons specified in paragraph (2) below the Secretary of State may pay to him in respect of that day an amount equal to the incapacity benefit to which he would otherwise have been entitled.

(2) The reasons referred to in paragraph (1) above are that the coal industry employee fails to satisfy the contribution conditions for entitlement to sickness benefit or incapacity benefit or that he is absent from Great Britain.

(3) In the case of a coal industry employee who is in receipt of benefit under paragraph (1) above because he failed to satisfy the contribution conditions for entitlement to sickness benefit or incapacity benefit and subsequently satisfies the contribution conditions for incapacity benefit, the Secretary of State may continue to pay to him benefit under paragraph (1) above unless and until he makes a claim for incapacity benefit.

(4) Where a coal industry employee:

- (a) is receiving benefit under paragraph (1) above; and
- (b) is not absent from Great Britain; and
- (c) commenced his period of incapacity for work before 13th April 1995; and
- (d) ceases to claim incapacity benefit for a period of 57 days,

the Secretary of State may pay to him in respect of those 57 days benefit under paragraph (1) above for any day of incapacity for work on which he would not have been entitled to incapacity benefit had he claimed such benefit.

#### *Pension supplement*

7. Subject as is hereinafter provided, where a coal industry employee is in receipt of a pension from the Mineworkers' Pension Scheme or the Staff Superannuation Scheme or both but the pension or combined pensions as the case may be is or are less than £35 a week the Secretary of State may pay to him a weekly sum which with that pension or those pensions shall not exceed £35.

### *Limitation and adjustment of benefits*

#### **8. –**

(1) No payments shall be made under this Scheme in respect of any week in which a coal industry employee is in coal industry employment.

(2) In respect of any week during which a coal industry employee is in self-employment or in employment other than coal industry employment, the weekly payment under Article 7 to such a coal industry employee under this Scheme shall not exceed £20.00 and, for the purposes of this paragraph, employment or self-employment in any week for less than 16 hours shall not be regarded as employment or self-employment as the case may be.

(3) No benefit under Article 5 shall be paid to any coal industry employee in respect of any day on which he is:

- (a) entitled to a contribution-based jobseeker's allowance or during any period in which he would be entitled to a contribution-based jobseeker's allowance but for section 4(6) or (8) of the Jobseekers Act (amount payable by way of a jobseeker's allowance);
- (b) employed or self-employed unless he earns £2 or less (before any deductions) on that day.

(4) Any benefit under Article 5 shall be reduced or extinguished as the case may be by the amount of any occupational or personal pension in excess of £35 per week received by the coal industry employee.

(5) Any benefit under Article 6 shall be reduced or extinguished as the case may be by the amount of any pension under the Mineworkers' Pension Scheme or the Staff Superannuation Scheme in excess of £35 per week received by the coal industry employee.

(6) Benefits payable under Article 5 and Article 6 shall be adjusted by reference to any benefits payable to a coal industry employee under the 1992 Act, in accordance with the overlapping benefits regulations, as if the said Article 5 and Article 6 payments were personal benefits or dependency benefits, as appropriate, payable under Parts II, III and IV of the 1992 Act.

### *Duration of benefits*

#### **9. –**

(1) No payments under this Scheme shall be made to any coal industry employee in respect of any week falling after–

- (a) the attainment by such employee of the age of 65 in the case of a man or 60 in the case of a woman; or
- (b)
  - (i) where the coal industry employee was eligible under the 1983 Scheme, 3rd April 1999; or
  - (ii) where the coal industry employee was eligible under the 1984 Scheme, 31st March 2001; or
  - (iii) where the coal industry employee was eligible under the 1986 Scheme, 30th March 2002,

whichever of (a) above on the one hand or (b)(i) or (ii) or (iii) above as the case may be on the other shall first occur.

(2) In this Article:

- (a) “eligible under the 1983 Scheme” means that for him the relevant date fell on or after 6th April 1983 and before 1st April 1984;
- (b) “eligible under the 1984 Scheme” means that for him the relevant date fell on or after 1st April 1984 and before 30th March 1986;



- (c) “eligible under the 1986 Scheme” means that for him the relevant date fell on or after 30th March 1986 and before 29th March 1987.

*Rounding-off benefits*

**10.** Where the payments to a coal industry employee under this Scheme include a fraction of a penny that fraction shall be disregarded if it is less than half a penny and shall be treated as a whole penny if it is half a penny or more.

*Time of payments of benefits*

**11.** Payments to a coal industry employee under this Scheme may be paid in arrear and at intervals of not more than 6 weeks.

*Claims for payments*

**12.** –

(1) Subject to paragraph (2), it shall be a condition of the making of payments under this Scheme to any coal industry employee that a claim for weekly payments under the 1983 Scheme, the 1984 Scheme or the 1986 Scheme to that coal industry employee was submitted to the Secretary of State not later than 26 weeks after the relevant date.

(2) In any case in which the Secretary of State is satisfied that there was reasonable ground for failing to make a claim within such period as aforesaid he may accept a claim under this Scheme on application being made to him in that behalf.

*Class 3 national insurance contributions*

**13.** –

(1) Subject to paragraph (3) below, the Secretary of State may pay to a coal industry employee who is eligible for payments under this Scheme in respect of any week of a kind mentioned in paragraph (2) below, and at such time as the Secretary of State considers appropriate, a sum not exceeding that which is required to reimburse the coal industry employee the cost to him of making a Class 3 national insurance contribution.

(2) A week is of a kind referred to in paragraph (1) above if it–

- (a) fell in the period which commenced on 3rd January 1988 and expired on 23rd July 1989; or
- (b) is a week commencing on or after 23rd July 1989 in which the coal industry employee was entitled to payments under Article 5 of this Scheme

and if in either case it fell in a period in which the coal industry employee had not made or been credited with sufficient national insurance contributions to secure his entitlement to state retirement pension at the rate at which he would have been entitled to receive that pension if he had made or been credited with national insurance contributions for each week falling wholly or partly within the period commencing on 3rd January 1988 and expiring on his attaining the age of 65 or, in the case of a woman, the age of 60

(3) The Secretary of State shall not make a payment under this Article in respect of any week unless he is satisfied that the contribution in question will be, or has been, paid by or on behalf of the coal industry employee.

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## EXPLANATORY NOTE

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

This Order establishes under the Coal Industry Act 1977 a Scheme which amends and consolidates the Schemes established by the Redundant Mineworkers and Concessionary Coal (Payments Schemes) Orders 1983, 1984 and 1986 (the “earlier schemes”). The earlier schemes are for the payment of benefits to mineworkers, workers at coking plants and other coal industry employees made redundant (1) on or after 6th April 1983 and before 1st April 1984 (2) on or after 1st April 1984 and before 30th March 1986 and (3) on or after 30th March 1986 and before 29th March 1987. The Order (subject to certain transitional provisions) revokes and supersedes the earlier schemes.

Each of the earlier schemes has been amended on a number of occasions and a number of provisions of each are spent.

One of the benefits payable under the earlier schemes, under their Articles 9 substituted in 1989, is a benefit payable in certain specified circumstances to persons who are not entitled to unemployment benefit for certain specified reasons. The implementation of the Jobseekers Act 1995 will make it no longer possible for the benefit payable under the earlier schemes to be linked to unemployment benefit. Instead those entitled to receive benefit will continue to receive the sum currently payable and where applicable the dependant’s allowance, those sums being indexed to the percentage increase in the income support personal allowance for a single claimant aged not less than 25. In parallel with the implementation of the Jobseekers Act 1995, the change just described will come into effect from 7th October 1996. Until that date the present payments of the equivalent to unemployment benefit will continue by virtue of the transitional provision in the Order.

The definition of employment or self-employment in Article 8(2) has been changed from more than 16 hours to 16 hours or more and the calculation of benefit will be by reference to a 7 instead of a 6 day week, in order to bring it into line with Income Support.

Another of the benefits payable under the earlier schemes is a payment equivalent to incapacity benefit. The Scheme provides for payment of such a benefit, including payments during a break in claim lasting 57 days by coal industry employees who first claimed sickness benefit before 13th April 1995 and who wish to claim incapacity benefit from the Department of Social Security.

Like the earlier schemes, the Scheme also provides for a pension supplement and for the payment of the cost of a Class 3 national insurance contribution.

The termination dates of the earlier schemes remain the same for those entitled under those schemes and are 3rd April 1999 for those eligible under the 1983 Scheme, 31st March 2001 for those eligible under the 1984 Scheme and 30th March 2002 for those eligible under the 1986 Scheme provided, in each case, the coal industry employee does not earlier reach the age of 65 in the case of a man or the age of 60 in the case of a woman.