



Coal Industry Act 1987

1987 CHAPTER 3

Participation by representative organisations

5 Coal industry trusts.

(1) If, on application to the Charity Commissioners by an employee organisation, it appears to them—

- (a) that the members of the organisation or the members and their dependants constitute a substantial proportion of those who may benefit under a trust to which this section applies; and
- (b) that neither the organisation nor its members are entitled to appoint any of the trustees of the trust,

the Charity Commissioners may by order make a scheme making such amendments of the provisions regulating the trust as they consider appropriate for the purpose of securing fair representation amongst the trustees of those persons employed in the coal industry who may benefit under the trust.

(2) A scheme under subsection (1) above in respect of a trust may—

- (a) make such provision as to the manner in which the trustees are to be appointed as the Charity Commissioners consider appropriate;
- (b) restrict or remove any person's right to appoint a trustee;
- (c) remove any trustee; and
- (d) make such further amendments of the provisions regulating the trust (whether or not for the purpose mentioned in subsection (1) above) as the Charity Commissioners consider appropriate.

(3) This section applies to any trust for purposes which are exclusively charitable according to the law of England and Wales—

- (a) which is a trust of property wholly or partly representing an application of money from the miners' welfare fund constituted under section 20 of the ^{M1}Mining Industry Act 1920 or the body known as the Coal Industry Social Welfare Organisation;
- (b) which is a trust expressed to be for the benefit of—

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

whether or not any other persons are also beneficiaries; or

 - (c) under the terms of which all or a majority of the trustees are appointed by the body mentioned in paragraph (a) above or are appointed by the Corporation and an employee organisation.
- (4) In this section “an employee organisation” means an organisation with which such an agreement as is mentioned in section 46 of the ^{M2}Coal Industry Nationalisation Act 1946 (agreements for establishment of machinery for settlement of terms and conditions of employment etc.) has been made or with which the Charity Commissioners are satisfied that consultations are being or have been held for the purposes of that section.
- (5) References in this section to the trustees of a trust include references to the members of any body a function of which is to hold property subject to the trust or to perform any administrative functions in relation to the trust and, in relation to the members of such a body, references in this section to the appointment of trustees shall be construed as references to any corresponding procedure under the provisions relating to the constitution of the body.
- (6) Where any functions relating to a trust are exercisable by more than one body of trustees, for the purposes of subsection (1)(b) above the Charity Commissioners may disregard or have regard only to the members of one of those bodies.
- (7) The Charity Commissioners shall not exercise their powers under this section in any case which they consider, by reason of any special question of law or of fact which it may involve, more fit to be adjudicated on by the court (within the meaning of the ^{M3}Charities Act 1960).
- (8) Sections 18(3), (8), (10) to (12), 19(1) to (7) and 21 of the Charities Act 1960 shall apply in relation to the powers of the Charity Commissioners and the making of schemes under this section as they apply to their powers and the making of schemes under that Act (but with the omission from section 19(6) of the reference to a reference from the Secretary of State and the substitution in that section for the reference to section 18 of that Act of a reference to this section) and sections 40(1) to (4) and 42 of that Act shall apply to orders and decisions under this section as they apply to orders and decisions under that Act.
- (9) Nothing in this section shall affect any other powers exercisable by the Charity Commissioners or the High Court in relation to any trust to which this section applies.
- (10) In the application of this section to Scotland—
- (a) for the reference in subsection (3) to purposes which are exclusively charitable according to the law of England and Wales there shall be substituted a reference to purposes which are charitable, benevolent or philanthropic (whether or not they are charitable within the meaning of any rule of law);
 - (b) references to the Charity Commissioners shall be construed as references to the Court of Session; and
 - (c) subsections (7) and (8) above shall be omitted.

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Marginal Citations

- M1 1920 c.50.
- M2 1946 c.59.
- M3 1960 c.58.

6 Other social welfare bodies.

- (1) If it appears to the Secretary of State after receiving representations from the Corporation that there is any organisation representing a substantial proportion of their employees or of any class of them which does not enjoy full participation in any relevant social welfare body, that is to say—
 - (a) membership of the body;
 - (b) the right to vote on decisions affecting its affairs; and
 - (c) the right to participate in the management of its affairs in such other ways, if any, as appear to the Secretary of State to be appropriate,he may by order make such amendments of the constitution of the body as he considers appropriate for all or any of the following purposes, namely—
 - (i) to entitle the organisation to be a member of the body;
 - (ii) to confer on it the right to vote on decisions affecting its affairs; and
 - (iii) to confer on it the right to participate in the management of the body in any other way.
- (2) In this section “relevant social welfare body” means any body—
 - (a) which for the time being exercises functions in connection with the promotion of the social welfare of persons currently or formerly engaged in the coal mining industry or the dependants of such persons; and
 - (b) whose constitution provides for the Corporation and one or more organisations representing a substantial proportion of their employees or of any class of them to participate in the management of the body’s affairs.
- (3) An order under this section in respect of a relevant social welfare body which is a company may provide that the company shall be taken to have passed in general meeting on such day or days as may be specified in the order such resolutions as may be so specified in connection with the consolidation and reclassification of unissued shares and their allotment to such persons as the Secretary of State thinks appropriate; and any requirements compliance with which is necessary for the passing or implementation of those resolutions shall be taken to have been complied with.
- (4) An order under this section in respect of a relevant social welfare body may make such consequential, transitional and supplemental amendments of the constitution of the body as the Secretary of State considers appropriate.
- (5) An order under this section shall not amend the provisions regulating any trust to which section 5 above applies but, subject as aforesaid, shall have effect notwithstanding any provision to the contrary in any enactment or in the constitution of the body in question.
- (6) Before making an order under this section the Secretary of State shall consult the Corporation and any organisation which appears to him after consultation with the Corporation to represent a substantial proportion of their employees or of any class of

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them (other than any organisation representing employees who are also represented by another organisation which he has consulted).

- (7) The fact that a provision relating to the constitution of a body has been added or amended by an order under this section shall not preclude its subsequent alteration or deletion in accordance with any relevant powers.
- (8) Any person who is a party to an agreement to which a relevant social welfare body is a party which regulates the establishment by it of committees for the discharge of its functions in relation to particular areas may terminate the agreement by giving notice in writing to the other parties to the agreement not later than two months before the date specified in the notice as the date on which the termination is to take effect (but without prejudice to any right of any party to such an agreement to terminate it at shorter notice).
- (9) References in this section to membership or a right enjoyed by an organisation include membership or a right enjoyed by any person as a nominee or on behalf of the organisation.
- (10) The power to make an order under this section shall be exercisable by statutory instrument and an instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) The power to make an order under this section may only be exercised once as respects any relevant social welfare body unless it is exercised—
 - (a) before an order previously made under this section has come into force; and
 - (b) so as to amend or revoke that order;
 but for the purposes of this subsection the making of an order which is annulled under subsection (10) above or quashed under section 8 below shall be disregarded.

7 Superannuation schemes, etc.

- (1) If, after receiving representations from the Corporation, the Secretary of State considers that a scheme established under section 37 of the ^{M4}Coal Industry Nationalisation Act 1946 (provisions as to superannuation etc. rights) does not provide for participation in any function conferred under the scheme by any organisation which appears to him to represent a substantial proportion of the members of the scheme, the Secretary of State may by order make such amendments of the scheme as he considers appropriate to secure such participation by that organisation.
- (2) Before making an order amending a scheme under this section the Secretary of State shall consult the Corporation and any organisation which appears to him to represent a substantial proportion of the members of the scheme (other than any organisation representing members who are also represented by another organisation which he has consulted).
- (3) References in this section to the members of a scheme do not include members who have ceased to be liable to pay contributions under the scheme.
- (4) References in this section to participation by an organisation include participation by any person as a nominee or on behalf of the organisation.
- (5) An order under this section shall not make any amendment of a scheme of the kind which requires the consent of the Occupational Pensions Board under section 50(1) of the Social Security Pensions Act 1975 (alteration of rules of contracted-out schemes).

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- (6) An order amending a scheme under this section may make—
- (a) such consequential and supplementary amendments of the scheme; and
 - (b) without prejudice to paragraph (a) above, such amendments of any provisions in the scheme relating to the quorum necessary for the making of decisions relating to the scheme,
- as the Secretary of State considers appropriate.
- (7) The fact that a provision of a scheme has been added or amended by an order under this section shall not preclude its subsequent alteration or deletion in accordance with the scheme.
- (8) The power to make an order under this section shall be exercisable by statutory instrument and an instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The power to make an order under this section may only be exercised once as respects any scheme unless it is exercised—
- (a) before an order previously made under this section has come into force; and
 - (b) so as to amend or revoke that order;
- but for the purposes of this subsection the making of an order which is annulled under subsection (8) above or quashed under section 8 below shall be disregarded.

Marginal Citations

M4 1946 c. 59.

8 Proceedings for questioning validity of orders under sections 6 and 7.

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

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