
STATUTORY INSTRUMENTS

1950 No. 376

**The Coal Industry Nationalisation
(Superannuation) Regulations 1950**

Amendment of existing schemes

4.—(1) As from the relevant date every scheme and other arrangement and every regulating instrument in connection therewith which relates exclusively to—

- (a) persons, who have been in transferred employment before the primary or other relevant vesting date and to whom paragraph (1) or paragraph (2) of regulation three applies (other than persons referred to in paragraph (6) of this regulation);
- (b) persons, other than as aforesaid and other than persons referred to in the said paragraph (6), taken into the employment of the Board before the commencement of the Act of 1949 being persons who had been in employment in or in connection with coal industry activities or transferred allied activities;

and whereby pensions, gratuities or other like benefits are provided for them or other persons by reference to their employment (in these regulations referred to as “an exclusive scheme”) shall unless the context otherwise requires have effect—

- (i) as if references to the Board were substituted for references to the employer of such a person;
- (ii) as if references to the Board were substituted for references to the directors of an employer being a company;
- (iii) as if references to a member, or corresponding officer, of the Board were substituted for references to a director, or officer, of an employer;
- (iv) as if references to a “financial year” meant a “financial year of the Board” as defined in subsection (1) of section sixty-three of the Act of 1946; so however that that expression shall mean, in relation to the current financial year at the relevant date, that year but ending at the end of the then current financial year of the Board;
- (v) as if references to the ownership of a colliery or collieries in a specified district included references to a colliery or collieries owned by the Board in that district, or in any district corresponding to or comprising that district, by whatsoever name that district may be called or described.

(2) If any exclusive scheme provides for the appointment of a trustee or trustees to represent the employer, the Board may appoint any person or persons as trustee or trustees to represent the Board; but unless another person or other persons are so appointed the person or persons who are trustees at the relevant date shall without prejudice to his or their right (if any) to retire, remain trustees.

(3) In any case in which an exclusive scheme provides for an office being held by a person bearing a description not applicable to the Board, the Board shall determine their office who is to hold such office.

(4) Any provision in an exclusive scheme which authorises or requires an account to be with a particular bank shall be construed as if, in addition, it enabled such account to be with any other bank specified by the Board.

(5) Provisions in any exclusive scheme limiting the eligibility for membership of the scheme to the employees, or specified classes or descriptions of employees, of a particular employer shall, as from the relevant date, be construed as limiting that eligibility to the employees, or the specified classes or descriptions of employees, employed at the undertaking which formerly comprised the concern of that employer, and to persons who were so employed immediately before the relevant date.

(6) The persons excepted from paragraph (1) of this regulation are any persons who were employed by a colliery concern engaged in the working and getting of coal comprised in a mine of the class specified in paragraph (a) of subsection (2) of section thirty-six of the Act of 1946 if before the expiration of six months from the relevant date the Board granted a licence under the said subsection (2) authorising the working and getting of coal from that mine by that concern and they continued to work after the relevant date at that mine and were employed thereat by that concern.

5.—(1) As from the relevant date every scheme and other arrangement, and every regulating instrument in connection therewith, existing at the relevant date which relates partly but not exclusively to such persons as fall within sub-paragraph (a) or (b) of paragraph (1) of the last preceding regulation (in these regulations referred to as a “non-exclusive scheme”) shall be deemed in all respects to be, and shall be administered as, two separate schemes, being as to one part a scheme for the benefit of all persons who are entitled to benefit, or were in receipt of any benefit, under such non-exclusive scheme and who are persons within the said paragraphs (in these regulations referred to as “the Board's part”), and as to the other part a scheme for the benefit of all other persons who were entitled to benefit, or were in receipt of any benefit, under such non-exclusive scheme (in these regulations referred to as “the employer's part”).

(2) As soon as practicable after the relevant date the funds, assets and liabilities as at that date of every non-exclusive scheme shall be apportioned between the Board's part and the employer's part. Any adjustment consequent on any person falling within sub-paragraph (a) or (b) of the said paragraph (1) subsequently to that date shall be made as soon as practicable thereafter. Every apportionment and adjustment as aforesaid shall, in default of agreement between the parties, be determined by an actuary appointed by the Minister.

(3) The part of such assets and funds as aforesaid apportioned (whether or not as the result of adjustment) to the Board's part shall, if vested in the employer, be transferred to the Board and if vested in trustees shall be transferred to the trustees of the Board's part appointed (or when appointed) as mentioned in the next following paragraph; and the part of such liabilities as aforesaid apportioned (whether or not as the result of adjustment) to the Board's part shall have effect as against the Board or, as the case may be, the trustees of the Board's part.

(4) In the case of any non-exclusive scheme which provides for the appointment of trustees or for the election or appointment of a committee, trustees of the Board's part shall be appointed or, as the case may be, a committee in respect of the Board's part shall be elected or appointed as soon as practicable after the relevant date in accordance with such provisions; the existing trustees or, as the case may be, committee shall, until such appointment or election, continue to act in respect of both the Board's part and the employer's part.

(5) Where any policy of assurance forms part of the assets of a non-exclusive scheme and the benefits and liabilities thereunder have been apportioned as aforesaid the assurer shall issue in substitution for such policy two policies to give effect to such apportionment as aforesaid, one in favour of the Board or, as the case may be, the trustees of the Board's part and the other in favour of the person or persons in whose favour the said policy stood at the date of such apportionment.

(6) The provisions of the last preceding regulation shall apply with requisite modifications to the Board's part of a non-exclusive scheme as they apply to an exclusive scheme.

(7) Any reference in a non-exclusive scheme to the employer ceasing to carry on business (whether or not for the purpose of reconstruction) or being wound up or going into liquidation or becoming bankrupt shall, in relation to the Board's part, cease to have effect.

(8) For the purposes of this regulation the expression “actuary” means a person who holds the diploma of Fellowship of the Institute of Actuaries or of the Faculty of Actuaries in Scotland.

6. As from the relevant date no person not then already entitled to participate in an exclusive scheme or in the Board's part of a non-exclusive scheme shall unless the Board in writing so permit, become entitled to participate therein.

7. No amendment deemed to have been made by the provisions of the three last preceding regulations shall affect any liability of the employer which has accrued before the relevant date; and any such liability may be enforced as if such provision had not been made.

8. Nothing in these regulations shall apply to any scheme or other arrangement or to any regulating instrument in connection therewith—

- (a) established for the purposes of or in connection with the Workmen's Compensation Acts, 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act, 1925, or the Workmen's Compensation Act, 1906 ;
- (b) established by a trade union within the meaning of the Trade Union Act, 1913; or
- (c) established by the rules of a friendly society, whether registered under the Friendly Societies Act, 1896, or not, if the Minister is satisfied that the number of members of such scheme or other arrangement who were immediately prior to the primary vesting date employed in coal industry activities or transferred allied activities was not a substantial proportion of the total membership of such scheme or other arrangement.