

**THE INDUSTRY-WIDE MINeworkERS' PENSION SCHEME**

**AMENDMENTS TO AND CLARIFICATION OF CLAUSE 39 OF THE TRUST DEED (MISCELLANEOUS)**

1. Pursuant to a review of the terms of the indemnity provided at clause 39 of the Trust Deed (the "Indemnity") the Co-ordinator wishes to amend clause 39 of the Trust Deed to:
  - (a) further define the acts that are excluded from the Indemnity; and
  - (b) enable the Committee of Management in certain circumstances to seek reimbursement after the exercise of the Indemnity and direct certain action from those seeking or benefiting from the protection of the Indemnity.

2. The Co-ordinator also wishes to clarify the position of individuals covered by the Indemnity who cease to hold the positions listed in clause 39(1) (the "Protected Positions"). Holders of Protected Positions benefit from the protection of the Indemnity. The Co-ordinator and the Committee of Management have been advised that the Indemnity, as currently drafted, continues to apply to holders of Protected Positions when they cease to hold Protected Positions in respect of acts and omissions undertaken as a holder of a Protected Position. The Co-ordinator and the Committee of Management agree with this advice and acknowledge that this is their understanding of the protection offered by the Indemnity.

The Co-ordinator and the Committee of Management have agreed to clarify formally their understanding of the protection afforded by the Indemnity to individuals who cease to hold Protected Positions. The Co-ordinator and the Committee of Management have agreed that the clarification should be made by the addition of clarifying wording to clause 39 of the Trust Deed. Such clarification will therefore take the form of an amendment to the wording (but not the meaning) of the Indemnity. The clarifying wording shall be inserted at the end of clause 39(2) and shall read; "For the avoidance of doubt, the protection provided by this Clause shall continue to apply to persons who cease to hold or have ceased prior to the date of this resolution to hold the positions that entitled them to be persons protected by this Clause in respect of acts done or omitted by such persons whilst they held positions that entitled them to be persons protected by this Clause".

3. Clause 38(1) of the Trust Deed provides that the Co-ordinator may with the consent of the Trustee amend the Trust Deed and Rules. The Trustee has agreed to the proposed amendments to the Trust Deed and Rules set out below (as evidenced by the Committee of Management's signature on this resolution).
4. With effect on and from [the date of this resolution] clause 39 shall be deleted and replaced as follows:

**"39. Miscellaneous**

- (1) Save to the extent that they are covered by external insurance the persons protected by this Clause are:
  - (a) the members and alternate members of the Committee of Management and of every sub-committee of the Committee of Management;
  - (b) each of the joint Secretaries and the Pensions Officer;

(c) any other person to whom the Committee of Management shall have determined under paragraph (4) of this Clause that this Clause shall apply (but subject to the terms of any determination so made).

(2) Unless and except to the extent that he is otherwise covered by external insurance, every person indemnified 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 an act or omission which, unless the parties agree otherwise, has been finally determined by a court of competent jurisdiction (without any right of appeal against that determination to a higher court or authority) to be a wilful or reckless act or omission by that person known by him to be a breach of trust or 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. For the avoidance of doubt, the protection provided by this Clause shall continue to apply to persons who cease to hold or have ceased prior to the date of this resolution to hold the positions that entitled them to be persons protected by this Clause in respect of acts done or omitted by such persons whilst they held positions that entitled them to be persons protected by this Clause.

(2A) Once an act or omission which, unless the parties agree otherwise, has been finally determined by a court of competent jurisdiction (without any right of appeal against that determination to a higher court or authority) to be a wilful or reckless act or omission of the kind which excludes the right to an indemnity under (2) above, the Committee of Management shall ensure as a condition of the operation of the indemnity provided under Clause 39(2) that the person concerned shall pay to the Scheme:

- (a) all sums (including the legal costs and disbursements paid for out of the moneys of the Scheme in indemnifying the person) which have been paid under (2) above from the Scheme but would not have been paid had that final determination or agreement been made at the outset; plus
- (b) interest on those sums at the base rate from time to time of Lloyds TSB Bank PLC or its successor in business from time to time.

(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 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 an act or omission which, unless the parties agree otherwise, has been finally determined by a court of competent jurisdiction (without any right of appeal against that determination to a higher court or authority) to be 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.

(3A) Solely in (3B) and (3C) below, "**Relevant Person**" means a person who:

- (a) is protected by this Clause and is seeking that protection in relation to a particular dispute or other matter (the "**Relevant Matter**"); and

(b) does not have sufficient control and authority over the assets and moneys of the Scheme to be able to effect payment of sums due under the indemnity under (2) above directly from the Pension Fund.

(3B) If the Committee of Management requests a Relevant Person to compromise or settle in whole or in part, or to make any payment in relation to, the Relevant Matter:

(a) the Relevant Person and his estate and effects shall be indemnified and kept indemnified in accordance with (2) above for the consequences of complying with that request; and

(b) if he does not comply with that request, he will lose the benefit of the indemnity under (2) in relation to sums incurred or sustained by him in relation to the Relevant Matter more than one week after the earliest date on which it can be demonstrated that he had actual written notice of that request.

The Committee of Management may not however require the Relevant Person to admit liability and neither the Trustee nor the Committee of Management shall indicate to any person that he has admitted liability unless he has actually done so.

(3C) If, in relation to any payment for which a Relevant Person is indemnified under (2) above, he is able to recover all or part of that payment from a third party (or would have been able to recover it were it not for that indemnity), then the Committee of Management shall ensure as a condition of the operation of the indemnity provided under Clause 39(2) that the Relevant Person shall take all necessary steps to enable the Trustee to recover those sums instead.

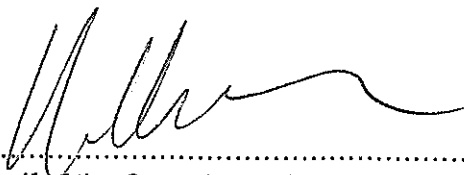
(3D) No amendments to this Clause shall reduce the protection given by it to any person in relation to acts or omissions or circumstances which occur before:

(a) he has received actual formal written notice from the Co-ordinator of the amendment; and

(b) sufficient time has passed following receipt of that notice to enable him to vacate the office or position by reference to which he has until then been protected under this Clause 39.

(4) The Committee of Management 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 of Management may think fit, be afforded the benefit of indemnity under paragraph (2) of this Clause."

It is HEREBY RESOLVED that the above amendments proposed by the Co-ordinator in accordance with Clause 38 of the Trust Deed are HEREBY APPROVED by the Committee of Management.

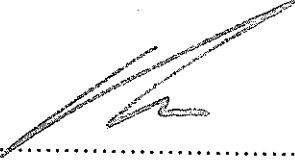


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On behalf of the Committee of Management

8 June 2005

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Date

It is HEREBY RESOLVED by the Co-ordinator to amend the Scheme in the manner set out above.



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On behalf of the Co-ordinator

22 July 2005

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Date