

THE INDUSTRY-WIDE MINeworkERS' PENSION SCHEME (THE "SCHEME")

RA
38
(2015RA2)

1. RECITALS

- 1.1 The Co-ordinator wishes to amend the Trust Deed and Rules so that if a Member of an Employer's Fund commutes a proportion of his pension for a lump sum under the option in Rule 14(4) when that Employer's Fund is in a Pension Protection Fund ("PPF") assessment period, the PPF's basis of commutation under paragraph 24 of Schedule 7 to the Pensions Act 2004 will be used as the basis for commutation. Outside a PPF assessment period, the PPF's basis of commutation will not apply and the basis otherwise specified in Rule 14(4) will continue to apply.
- 1.2 The Trustee has received advice that amendments of this nature would not increase the protected liabilities of the Scheme (as defined in section 131 of the Pensions Act 2004). Consequently the amendments below will form part of the admissible rules of the Scheme for the purposes of paragraph 35 of Schedule 7 to the Pensions Act 2004.
- 1.3 Clause 38(1) of the Trust Deed provides that the Co-ordinator may, with the consent of the Committee of Management where this is required under paragraph (2) or (4) of that clause, amend the Trust Deed and Rules subject to certain restrictions which are not relevant to the amendments set out in this resolution.
- 1.4 Section 67 of the Pensions Act 1995 (the "Act") provides that a Regulated Modification (as defined in the Act) is voidable unless certain conditions are met. The Co-ordinator is satisfied that the proposed amendments do not constitute Regulated Modifications.
- 1.5 The Actuary has confirmed to the Trustee for the purposes of Regulation 42(2) of the Occupational Pension Schemes (Contracting Out) Regulations 1996 that he is satisfied that if the amendments in this resolution are made, the Scheme will continue to satisfy the statutory standard under section 12A of the Pension Schemes Act 1993.
- 1.6 The Co-ordinator wishes to make the amendments set out below and a majority of the Committee of Management has consented to those amendments as required by Clause 38(4) of the Trust Deed (as evidenced by the Committee's signature on this resolution).
- 1.7 This resolution may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument. Each of the parties may enter into this resolution by executing any such counterpart.

2. RESOLUTIONS

Amendments to the main Trust Deed and Rules

- 2.1 With effect on and from the date of this Resolution the following new definitions will be inserted in clause 43(2) in the appropriate place alphabetically:

"**Kellingley Fund**" means the Employer's Fund relating to employees and former employees of UK Coal Kellingley Limited.

"**Thoresby Fund**" means the Employer's Fund relating to employees and former employees of UK Coal Thoresby Limited.
- 2.2 With effect on and from the date of this Resolution, the version of Rule 14(4) set out in the main provisions of the Trust Deed and Rules will be deleted in its entirety and the following new Rule 14(4) will be inserted in its place:

"(4) A member may, prior to his pension becoming payable, elect to commute all or part of his pension for a lump sum payment:

- (a) if the commutation is made when his Employer's Fund is in an "assessment period" as defined in section 132 of the Pensions Act 2004, on the basis for commutation most recently adopted by the Board of the Pension Protection Fund under paragraph 24 of schedule 7 to the Pensions Act 2004 when the amount of the lump sum is calculated; or
- (b) if the commutation is made in other circumstances (including, for the avoidance of doubt, in circumstances where the Board of the Pension Protection Fund has ceased to be involved with the relevant Employer's Fund in accordance with section 149 of the Pensions Act 2004 or section 154 of the Pensions Act 2004 applies), on the basis of £9 for each £1 of pension commuted,

PROVIDED THAT such lump sum payment shall not be an Unauthorised Payment (as defined in the Finance Act 2004)."

Amendments to Appendix IV – Modified UKCML Fund Benefits

- 2.3 With effect on and from the date of this Resolution the version of Rule 14(4) set out in paragraph 14 of Appendix IV of the Trust Deed and Rules will be deleted in its entirety and the following new Rule 14(4) will be inserted in its place:

- "(4) Subject to Rule 14(6) a member may, prior to his pension becoming payable, elect to commute all or part of his pension for a lump sum payment:
- (a) if the commutation is made during any period when his Employer's Fund is not in an "assessment period" as defined in section 132 of the Pensions Act 2004 (a "**Relevant Assessment Period**"), on the basis of £9 for each £1 of pension commuted; or
 - (b) if the commutation is made during a Relevant Assessment Period, on the basis for commutation most recently adopted by the Board of the Pension Protection Fund under paragraph 24 of Schedule 7 to the Pensions Act 2004 when the amount of the lump sum payment is calculated."

- 2.4 With effect on and from the date of this Resolution the version of Rule 14(5) set out in paragraph 14 of Appendix IV of the Trust Deed and Rules will be deleted in its entirety and the following will be inserted in its place:

"(5) [Not used.]"

- 2.5 With effect on and from the date of this Resolution the Co-ordinator and the Trustee agree that the above amendment to paragraph 14 of Appendix IV of the Trust Deed and Rules will apply to the Thoresby Fund and the Kellingley Fund as the benefits payable to the Members of these Employer's Funds are governed by Appendix IV of the Trust Deed and Rules.

It is hereby confirmed that the Committee of Management consents to the amendments set out above in accordance with Clause 38 of the Trust Deed.

..... *H. McGuire*

On behalf of the Committee of Management

..... *22-9-15*

Date

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

..... *D. Dea*

On behalf of the Co-ordinator

..... *11 November 2015*

Date