

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

RECITALS

- (A) The Pensions Act 2014 introduces a single-tier state pension with effect from 6 April 2016, and as a result the Scheme will cease to be contracted-out of the additional state pension. The Co-ordinator wishes to amend the Trust Deed and Rules to reflect the abolition of contracting-out.
- (B) 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.
- (C) The Co-ordinator wishes to make the amendments set out in the resolutions 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).
- (D) Section 67 of the Pensions Act 1995 provides that a Regulated Modification (as defined in section 67A of the Pensions Act 1995) is voidable unless certain conditions are met. The Co-ordinator is satisfied that the proposed amendments do not constitute Regulated Modifications.
- (E) The Actuary has confirmed that the amendments in the resolutions below satisfy the requirements under section 37 of the Pension Schemes Act 1993 and regulations made thereunder and this confirmation is appended.
- (F) This document 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 the resolutions by executing any such counterpart.

RESOLUTIONS

1. EFFECTIVE DATE

The resolutions set out below shall take effect on and from 11:59pm on 5 April 2016.

2. AMENDMENTS TO THE TRUST DEED AND RULES

2.1 In clause 43(1) of the Trust Deed:

- (a) The definition of "*Contributions Equivalent Premium*" shall be deleted in its entirety and replaced as follows:

"Contributions Equivalent Premium" has the meaning assigned thereto by section 55(2) of the 1993 Act."

- (b) A new definition shall be added in the appropriate alphabetical position as follows:

"GMP Pensionable Age" means a man's 65th birthday and a woman's 60th birthday."

- (c) The definition of "*State Pensionable Age*" shall be deleted in its entirety.

2.2 Rule 12 shall be deleted in its entirety and replaced as follows:

"CONTRACTING-OUT

12. *If any employment prior to 6 April 2016 was contracted-out employment by reference to the Scheme, the provisions of the Contracting-out Appendix shall apply."*

2.3 Rule 20(4) shall be amended by replacing the words "State Pensionable Age" with the words "GMP Pensionable Age".

2.4 Rule 49A(2) shall be deleted in its entirety and replaced as follows:

"(2) Rule 49A.1 shall not apply to benefits accrued prior to 6 April 2016 to the extent that, following any modification of a term pursuant to that Rule, the Scheme would cease to satisfy the Statutory Standard applied prior to 6 April 2016."

2.5 References in the Trust Deed and Rules to "clause 49A" (and to any sub-section of clause 49A) shall be replaced by references to "Rule 49A" (and to the relevant sub-section of that Rule).

3. AMENDMENT TO CONTRACTING-OUT APPENDIX

Appendix I (Contracting-out) to the Trust Deed and Rules shall be deleted in its entirety and replaced by the new Appendix I set out in the Schedule to these resolutions.

4. AMENDMENT TO UKCML APPENDIX

4.1 The definitions of "Revaluation Increase1" in paragraph 1(3) of Part 1 of Appendix IV (Modified UKCML Fund Benefits) shall be amended by replacing the words "State Pension Age" with the words "GMP Pensionable Age".

4.2 Paragraph 20(4) of Part 2 of Appendix IV (Modified UKCML Fund Benefits) shall be amended by replacing the words "State Pensionable Age" with the words "GMP Pensionable Age".

..... *H. McGuire*

On behalf of the Committee of Management

..... *15.3.16*

Date

..... *D. Dale*

On behalf of the Co-ordinator

..... *23.2.17*

Date

SCHEDULE

APPENDIX I: CONTRACTING-OUT

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PART I – INTERPRETATION, APPLICATION AND AMENDMENT

1. INTERPRETATION

1.1 Definitions

In this Appendix the following words have the following meanings:

"**the Act**" means the Pension Schemes Act 1993.

"**Appendix**" means this Appendix governing the treatment of contracted-out rights in the Scheme.

"**Civil Partner**" means a civil partner under the Civil Partnership Act 2004.

"**Contracted-out Employment**" means a Member's contracted-out employment by reference to the Scheme (as in section 8(1) of the Act).

"**Fixed Rate Revaluation**" means the method of revaluing a GMP before GMP Pensionable Age described in Rule 5.1(B) below.

"**GMP**" means the guaranteed minimum pension of a Member, Widow, Widower or surviving Civil Partner as defined in the Act.

"**GMP Pensionable Age**" means a man's 65th birthday and a woman's 60th birthday.

"**Member**" means a member of the Scheme (including a person who is not in the pensionable service of any employer participating in the Scheme but to whom or in respect of whom, benefits are still immediately or prospectively payable under the Scheme in respect of previous membership of the Scheme or another scheme).

"**No.2 Regulations**" means the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015.

"**Normal Retiring Date**" means the day on which a Member attains normal pension age (within the meaning of the Act) under the Scheme.

"**Protected Rights**" has the same meaning that was given to it in section 10 of the Act immediately prior to that section being repealed.

"**Qualifying Service**" has the same meaning as in section 71(7) of the Act.

"**Rule**" (followed by a number) means a Rule in this Appendix and "these Rules" means the Rules in this Appendix.

"**Same Sex Spouse**" means a same-sex spouse under the Marriage (Same Sex Couples) Act 2013.

"**Scheme**" means the Industry-Wide Mineworkers' Pension Scheme.

"**Section 9(2B) Rights**" has the same meaning as in the No. 2 Regulations.

"**Section 53 money purchase scheme**" means a scheme which was a contracted-out money purchase scheme and to which section 53 of the Act applied prior to 6 April 2012.

"**Section 53 salary related scheme**" means a scheme which was a contracted-out salary related scheme to which section 53 of the Act applies.

"**Section 148 Revaluation**" means the method of revaluing a GMP before GMP Pensionable Age described in Rule 5.1(A) below.

"Short Service Benefit" means the benefit to which an early leaver who satisfies the qualifying conditions must be entitled under the preservation requirements.

"Transfer Regulations 1996" means the Contracting-Out (Transfer and Transfer Payment) Regulations 1996.

"Trustee" means the Industry-Wide Mineworkers' Pension Scheme Trustees Limited.

"Widow" and **"Widower"**: means respectively the widow and the widower of a Member, and in this Appendix except in Rule 4, widow shall include a woman who is a surviving Same Sex Spouse and widower shall include a man who is a surviving Same Sex Spouse. If a Member has married under a law which allows polygamy and, on the day of the Member's death has more than one spouse, none of them will qualify as a Widow or Widower. However, if only one spouse survives, that survivor will be the widow or widower.

1.2 Interpretation

References to legislation shall include any modification or re-enactment of that legislation and any regulations made under it.

2. APPLICATION OF THIS APPENDIX

2.1 The Scheme is intended to be an occupational pension scheme which, prior to 6 April 2016, was contracted-out by satisfying the requirements under sections 9(2) of the Act as in force prior to 6 April 2016. Following the abolition of contracting-out on 6 April 2016, the Scheme will comply with all requirements relating to rights acquired by reference to Contracted-out Employment including under the Act, the No.2 Regulations, the Abolition of Contracting-out for Salary Related Pension Schemes (Consequential Amendments) Order 2016, and any other legislation applicable to a scheme which was formerly contracted-out (subject to any transitional provisions under the Pensions Act 2014 (Savings) Order 2015), and this Appendix should be read in light of the legislation in force from time to time listed in this Rule 2.1.

2.2 The provisions of this Appendix override any of the other provisions of the Scheme with which they are inconsistent provided that the Trustee shall not be required to make a payment that would be an unauthorised payment for the purposes of the Finance Act 2004. This Appendix has been drafted to comply with section 12(E) of the Act and should be construed accordingly.

2.3 Part II of this Appendix applies to periods of Contracted-out Employment by reference to the Scheme prior to 6 April 1997 and will only apply for so long as anyone has a GMP or a prospective right to receive a GMP under the Scheme. Part III of this Appendix applies to periods of Contracted-out Employment by reference to the Scheme after 5 April 1997.

3. AMENDMENT OF THE SCHEME RULES AND THIS APPENDIX

3.1 The provisions of the Scheme shall not be altered in a manner which is prohibited by section 37 of the Act or Regulations 17 or 20 of the No.2 Regulations (if and to the extent those provisions are in force and apply to the Scheme at the relevant time).

3.2 Subject to the provisions of section 37 of the Act, Regulations 17 and 20 of the No. 2 Regulations (if and to the extent those provisions are in force and apply to the Scheme at the relevant time), the persons or bodies having the power of alteration in relation to the rest of the Scheme may at any time in writing make any alteration to these Rules.

PART II - PRE-APRIL 1997 CONTRACTED-OUT RIGHTS

4. ENTITLEMENT TO GMP

4.1 Guaranteed Minimum

This Rule 4 applies to a Member, Widow, Widower, surviving Civil Partner or surviving Same Sex Spouse where the Member has a guaranteed minimum in relation to the pension provided for the Member under the Scheme in accordance with section 14 of the Act.

4.2 Member's GMP

The Member shall be entitled to a pension for life paid at a rate equivalent to a weekly rate of not less than that guaranteed minimum. The pension will be paid from GMP Pensionable Age but commencement of the pension may be postponed for any period during which the Member remains in employment after GMP Pensionable Age:

- (a) if the employment is employment to which the Scheme relates and the postponement is not for more than 5 years after GMP Pensionable Age; or
- (b) if the Member consents to the postponement.

4.3 Widow's GMP

Where the Member is a man and dies leaving a Widow, she shall be entitled to receive a pension from the Scheme paid at a rate equivalent to a weekly rate of not less than half that guaranteed minimum.

4.4 Payment of Widow's GMP

Subject to section 17 of the Act and Regulations 21 and 22 of the No. 2 Regulations, the pension shall be paid to any Widow for life.

4.5 Widower's, surviving Civil Partner's and Same Sex Spouse's GMP

Where the Member:

- (a) is a woman and dies on or after 6 April 1988 leaving a Widower, or
- (b) is a man or a woman and dies on or after 5 December 2005 leaving a surviving Civil Partner or Same Sex Spouse;

he or she shall be entitled to receive a pension from the Scheme paid at a rate equivalent to a weekly rate of not less than half of that part of the guaranteed minimum which is attributable to earnings for the tax year 1988-1989 and subsequent tax years up to and including the tax year 1996-1997.

4.6 Payment of Widower's GMP

Subject to section 17 of the Act and Regulations 21 and 22 of the No. 2 Regulations, the pension shall be paid for life to Widower, surviving Civil Partner or surviving Same Sex Spouse for life.

4.7 **Offsetting pension against GMP**

Any pension payable to the Member, Widow, Widower, surviving Civil Partner or Same Sex Spouse under any other provision of the Scheme in respect of Contracted-out Employment to which Part II of these Rules apply may be offset against the pension entitlement under this Rule 4 except to the extent that:

- (a) any part of the pension is an equivalent pension benefit within the meaning of the National Insurance Act 1965;
- (b) any part of the pension is an increase, calculated in accordance with Schedule 3 of the Act and added to the amount that would be payable but for Chapter II of Part IV of the Act or regulations made under it;
- (c) offsetting would contravene the anti-franking legislation (see Rule 7 below).

5. **REVALUATION OF GMP**

5.1 **Revaluation before GMP Pensionable Age**

The Member's GMP at GMP Pensionable Age or at the Member's earlier death will be calculated by increasing the accrued rights to GMP at 5 April 1997 as prescribed below.

For increases up to the date on which the Member ceases Contracted-out Employment, or if the Member is in pensionable service after 5 April 2016, the date on which his pensionable service in the Scheme ceases (if later), the increase will be by the percentage by which earnings factors for the tax year 1996-97 are increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the tax year in which the Member ceases pensionable service.

For increases from the date of cessation of the Member's Contracted-out Employment, or if the Member is in pensionable service after 5 April 2016, the date on which his or her pensionable service ceases (if later), under one of the options (A) or (B) below:

(A) Section 148 Revaluation

The increase will be by the percentage by which earnings factors for the tax year 1996-97 or the earlier tax year in which Contracted-out Employment ceases are increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the tax year in which the Member reaches GMP Pensionable Age (or dies, if earlier).

(B) Fixed Rate Revaluation

The increase will be by such rate as regulations made under section 16(3) of the Act specify as being relevant at 5 April 1997 or the earlier date of cessation of Contracted-out Employment, for each relevant tax year (as defined in section 14 of the Act) after the tax year containing that date up to and including the last tax year before the Member reaches GMP Pensionable Age (or dies, if earlier).

The Trustee and the principal employer shall decide which of the options (A) or (B) applies to the Scheme. They may at any time decide that the other method shall be used,

instead of the method currently being used, for all Members either ceasing to be in Contracted-out Employment after a specified date, or for Members in pensionable service after 5 April 2016, for all Members ceasing to be in pensionable service after a specified date.

5.2 Transfers in

Where a transfer payment is received in respect of a Member from another scheme ("the **transferring scheme**") which includes accrued rights of the Member to a GMP (or includes protected rights in respect of which the Scheme must provide a GMP), the earnings factors used in calculating that GMP will normally be revalued using Section 148 Revaluation. The Trustee may, however, decide, where permitted by legislation and if the provisions of the transferring scheme so allow, to use Fixed Rate Revaluation from the date on which the Member ceased to be in Contracted-out Employment by reference to the transferring scheme until the Member attains GMP Pensionable Age (or dies, if earlier).

Where the Scheme accepts the proceeds of, or the assignment of, an insurance policy which consists of, or includes, accrued rights to GMP, the Trustee may use either Section 148 Revaluation or Fixed Rate Revaluation as they decide.

5.3 Transfers out

Where a Member's accrued rights to GMP are transferred to another scheme which was contracted-out, the Trustee may agree with the administrator of that scheme that the Member's GMP shall, instead of being revalued using the method currently being adopted under Rule 5.1 above, be revalued using the other method which would be permitted if that scheme contained a rule in the same terms as 5.2 above.

6. INCREASE OF GMP

6.1 Increase after GMP Pensionable Age

If the commencement of any Member's GMP is postponed for any period after GMP Pensionable Age, that GMP shall be increased to the extent, if any, specified in section 15 of the Act.

6.2 Increase after GMP Pensionable Age or Member's death

Any GMP to which a Member, Widow or Widower or surviving Civil Partner is entitled under Rule 5 above shall, insofar as it is attributable to earnings in the tax years from and including 1988/1989, be increased in accordance with the requirements of section 109 of the Act.

7. ANTI-FRANKING

Except as provided in sections 87-92 and 110 of the Act, no part of a Member's, Widow's, Widower's or surviving Civil Partner's pension under the Scheme may be used to frank an increase in the Member's, Widow's, Widower's or surviving Civil Partner's GMP under Rule 5 or Rule 6 of this Appendix.

8. TRANSFERS INTO THE PLAN

8.1 Acceptance of transfers

The Trustee may accept:

- (a) a transfer payment in respect of the Member's accrued rights to GMPs under a scheme that was contracted-out, a Section 53 salary related scheme, or a policy of insurance or an annuity contract of the type described in section 19 of the Act;
- (b) a transfer of the liability for the payment of GMPs to, or in respect of, any person who has become entitled to them; or
- (c) a transfer of Protected Rights
 - (i) in respect of the Member from another Scheme which is, or was an appropriate personal pension scheme;
 - (ii) in respect of the Member, from another scheme which is, or was, a scheme contracted-out on a money purchase basis or a Section 53 money purchase scheme¹.

Transfers may be accepted only as provided in the appropriate regulations.

8.2 Effect of transfers

Where a transfer is accepted under Rule 8.1 above, the Member's accrued rights to GMPs under the Scheme will be increased accordingly.

9. TRANSFERS OUT OF THE PLAN

9.1 Conditions for transfer of GMPs

A transfer payment made out of the Scheme may include a Member's accrued rights to GMPs or the liability for the payment of GMPs to, or in respect of, any person who has become entitled to them only if the following conditions are fulfilled. These conditions depend on the type of scheme, policy or contract to which the transfer is being made, but in all cases the transfer will be subject to any requirements of the Finance Act 2004.

(a) All schemes and arrangements

The Member must consent to the transfer unless regulations otherwise allow and, in particular, unless:

- (i) it is a connected employer transfer as defined in the Transfer Regulations 1996. The transfer must be made in accordance with the appropriate regulations (currently the Transfer Regulations 1996) which may involve an actuarial certificate;
- (ii) it is to allow benefits to be bought out where the Member has less than 5 years Qualifying Service, or to allow the Trustee to buy out the benefits of the Widow or Widower of such a Member.

Contracted-out salary related schemes and section 19 insurance policies or annuity contracts

The receiving scheme, policy or contract must provide the Member and the Member's Widow, Widower or surviving Civil Partner with GMPs equal to their accrued GMPs under the Scheme up to the date of transfer, together with

¹ Note that Protected Rights have now been abolished. We have not deleted references to Protected Rights as they may be relevant to the history of transfers received in respect of current active members.

reevaluation until the Member reaches GMP Pensionable Age (or dies, if earlier). In the case of GMPs already in payment, the receiving scheme must provide for the pensions to commence from the date from which liability for payment has been assumed by it, and for the conditions of payment relating to its own GMPs to apply equally to such pensions.

(b) **All occupational pension schemes (except overseas schemes covered by (e))**

Unless regulations otherwise allow, the Member must be employed by an employer which is a contributor to the receiving scheme or the Member must previously have been a Member of the receiving scheme.

(c) **Appropriate personal pension schemes and occupational pension schemes which are or were contracted-out by the money purchase test**

That part of the transfer payment which relates to the Member's accrued rights to GMPs must be of an amount at least equal to the cash equivalent of the accrued GMPs, as calculated and verified in a manner consistent with regulations made under section 97 of the Act, and must be applied by the receiving scheme in providing money purchase benefits for, or in respect of, the Member.

(d) **Overseas occupational pension schemes not covered by (b) or (c) above**

The transfer must be in accordance with regulation 6 of the Transfer Regulations 1996.

9.2 **Effect of such transfers**

Where the Member's accrued rights to GMPs or liability for GMPs already in payment are transferred in accordance with Rule 9.1 above, the Member and the Member's Widow, Widower or surviving Civil Partner will cease to have any entitlement to a GMP under the Scheme. If the transfer does not relate to the whole of the Member's rights to benefits under the Scheme, the Member's remaining benefits under the Scheme may be reduced to allow for the fact that the Member's GMP rights have been transferred.

10. **COMMUTATION OF GMP**

10.1 **Circumstances in which GMP may be commuted**

Where section 21 of the Act permits the Member's GMP and the Widow's, Widower's or surviving Civil Partner's GMP may be commuted.

11. **PRIORITIES ON WINDING-UP**

If the Scheme winds-up for any reason, the assets must be applied to provide benefits in accordance with the provisions of the Scheme applicable on a winding-up, subject to the provisions of section 73 of the Pensions Act and the Occupational Pension Schemes (Winding-up) Regulations 1996 (if and to the extent those provisions are in force).

12. **SUSPENSION AND FORFEITURE OF GMP**

Any instalment of a GMP may be suspended or forfeited where permitted by Regulation 26 of the No. 2 Regulations.

13. UPPER AGE LIMIT FOR ENTRY

Membership of the Scheme must be open to persons who enter employments to which the Scheme relates more than 6 years before Normal Retiring Date. If the Scheme has an annual entry date, this 6 year period may be increased to a period of between 6 and 7 years beginning with that annual entry date. Where the Scheme and one or more other contracted-out schemes relate to employment with the same employer, those schemes may be treated as if they were a single scheme in deciding whether the requirements of this Rule 13 are satisfied.

14. CONTRIBUTIONS EQUIVALENT PREMIUMS

14.1 The Trustee may elect to pay a contributions equivalent premium as defined in section 181 of the Act in accordance with sections 55 to 58 of the Act and the No. 2 Regulations.

14.2 Payment of a contributions equivalent premium extinguishes the Member's accrued rights to GMPs under the Plan.

PART III - POST-6 APRIL 1997 CONTRACTED-OUT RIGHTS

15. COMPLIANCE WITH APPLICABLE REQUIREMENTS

The Scheme shall be administered so as to comply with all applicable requirements, including those applicable to 9(2B) Rights, relating to a Scheme which was contracted-out for any period between 6 April 1997 and 6 April 2016.

16. CONTRIBUTIONS EQUIVALENT PREMIUMS

The Trustee may at any time pay a contributions equivalent premium in respect of any person entitled to Section 9(2B) Rights under the Scheme in accordance with Regulation 12 of the No. 2 Regulations and may make such other arrangements for the restoration of state scheme rights as the Trustee decides.

APPENDIX
CONFIRMATION OF COMPLIANCE WITH SECTION 37 PENSION SCHEMES ACT 1993


Section 37 Pension Schemes Act 1993 Confirmation

Section 37 of the Pension Schemes Act 1993 and Regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations 1996

I, Donald Duval, the actuary for the Industry Wide Mineworkers' Pension Scheme ("the Scheme") appointed in accordance with section 47(1) of the Pensions Act 1995, confirm to the trustees of the Scheme that, for the purpose of section 37 of the Pension Schemes Act 1993 (as amended by the Pensions Act 1995), I have considered the alterations to the Scheme envisaged by this Resolution, in relation to any rights which are to accrue under the Scheme in so far as such rights are attributable to an earner's service in contracted-out employment on or after the date on which the alterations to the rules take effect (other than rights attributable to the payment of voluntary contributions), and that I am satisfied that the Scheme would continue to satisfy the statutory standard in accordance with section 12A of the Pension Schemes Act 1993 (as inserted by the Pensions Act 1995) if the alterations in this Resolution were made.

General

This Confirmation will remain valid only if this Deed is executed within one month of the date below.

Signed		Date	5 April 2016
Name	Scheme Actuary		
Qualification	Fellow of the Institute and Faculty of Actuaries		
Address	Aon Hewitt 3 The Embankment Sovereign Street Leeds LS1 4BJ		