

CC/G



SECRETARY OF STATE FOR ENERGY

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The Rt Hon Sir Michael Havers QC MP
Attorney General
Attorney General's Chambers
Royal Courts of Justice
LONDON
WC2A 2LL

NBM

2 October 1986

1986 COAL INDUSTRY BILL

at trap PTP
In June E(A) colleagues agreed that the forthcoming Coal Industry Bill should include provisions to deal with problems following the emergence of the UDM about employee representation in the Mineworkers' Pension Scheme (MPS), the Coal Industry Social Welfare Organisation (CISWO), and related bodies. I made clear then that changes would also need to be made to a number of miners' welfare trusts, but was hopeful at that time of being able to achieve these using existing powers under Section 41 of the Coal Industry Nationalisation Act 1946, once CISWO had been reformed.

Further research has shown that my powers under Section 41, which are limited to trusts subsisting before 1 July 1952 which derived their property from the Miners' Welfare Fund, are insufficient. Similarly, although the Charity Commissioners have powers to amend charitable trusts in certain circumstances, they are precluded from using these unless requested to do so by the trustees and where the matter is contentious.

I am clear that we must act to resolve the problems which are arising in certain trusts where existing trustees appointed on behalf of the workforce are no longer representative. The trusts include welfare institutes which provide many of the recreational facilities in certain mining communities; where trustees who have remained loyal to the NUM are seeking to use the trusts for the purpose of inter-union rivalry in areas now dominated by the UDM, this can significantly affect the lives of UDM members.

Because of their lack of uniformity, the trusts will need to be amended individually. Both I and the Charity Commissioners, whom I have consulted, believe the right course is to legislate to extend their powers to vary these trusts upon the application of any organisation representing substantial numbers of persons employed in the coal industry. I believe that taking such powers for the Charity Commission will be substantially less controversial than if I were to take similar powers for myself. In drafting the legislation I see advantage in specifying fairly closely the

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considerations which the Charity Commissioners should take into account when determining how to respond to an application, and I will wish to impress upon them the need for prompt action once they have the new powers. David Hunt will be writing to the Chief Commissioner separately on this.

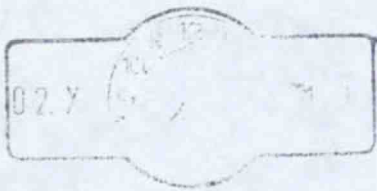
These proposals should not add significantly to the length of the Bill or the degree to which it will prove controversial. As you may know there remains a slight question mark over whether our proposals for CISWO itself will render the Bill hybrid, but I do not believe the present proposals will add significantly to that risk.

Copies of this letter go to the Prime Minister, other members of E(A), Willie Whitelaw, John Wakeham, David Mellor (as Minister with special responsibility for the Charity Commission), and to Sir Robert Armstrong.

A large, stylized handwritten signature in black ink, which appears to be "P. Walker".

PETER WALKER

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ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

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8 October 1986

The Rt Hon Peter Walker MBE
Secretary of State for Energy
Thames House South
Millbank
LONDON S W 1

NSM

Dear Peter.

1986 COAL INDUSTRY BILL

Thank you for your letter of 2 October setting out your proposals for ensuring that the trustees of miners' welfare trusts are properly representative of the workforce.

I accept that in the circumstances you describe new powers are necessary to vary these trusts, and that they should be conferred upon the Charity Commissioners rather than upon yourself. I regard this as a legitimate extension of the Commissioners' present powers in order to deal with the wholly exceptional difficulties which have arisen in the administration of these particular charitable trusts which form such an important part of the life of mining communities.

Since you will be supplementing the existing machinery of the Charities Act 1960 the decisions of the Charity Commissioners will be subject to appeal to the Chancery Division of the High Court rather than to challenge by way of judicial review. Although I would expect a significant number of appeals, at least in the early days, I do not think we would be justified in attempting to exclude this right, even if it was technically possible to do so. Provided the Commissioners are given adequate powers, and the legislation is clear and precise, the scope for successful challenge should be strictly limited.

I should add that under the existing law I would be a necessary party to any appeal against the Charity Commissioners' decisions, and if my views coincided with theirs it would be proper for me to represent their interests. If

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on the other hand I disagreed with the views they had taken in a particular case I could insist that they be separately represented. This is a long established procedure in charity cases and I see no reason to make special provision for decisions taken under the new powers.

I am sending copies of this letter to the Prime Minister, other members of E(A), Willie Whitelaw, John Wakeham, David Mellor, and to Sir Robert Armstrong.

Yours GAV.

Michael

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Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Peter Walker MBE MP
Secretary of State for Energy
Department of Energy
Thames House South
Millbank
London
SW1P 4QJ

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7 October 1986

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Dear Peter,

COAL INDUSTRY BILL

Thank you for sending me a copy of your letter of 2 October to Sir Michael Havers. I have no objection to the addition you suggest.

I am copying this letter to the Prime Minister, other members of E(A), Willie Whitelaw, John Wakeham, David Mellor, Michael Havers and to Sir Robert Armstrong.

Yours ever,
JH

JOHN MacGREGOR

NATIND Coal PT20

