

CONFIDENTIAL

Prime Minister

CCPS

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Prime Minister



DEm are content with ~~our~~
proposals. So is Policy Unit.
No Treasury objections either.

Content?

BHP 12/6

COAL INDUSTRY PRIVATISATION

We agreed at our meeting on 1 May to proceed with the early appointment of external advisers to assist with the privatisation of British Coal. At the end of May I appointed Rothschilds as my financial advisers and I expect to make appointments of accounting and legal advisers shortly. The Corporation have agreed not to appoint their own advisers until after the Election.

In common with British Rail, the question has arisen as to whether British Coal have the statutory power to appoint advisers. The Corporation have sought Counsel's opinion and have been advised that the appointment of privatisation advisers clearly falls outside their present powers. I accept this view. Without a paving provision there would therefore be a risk that when British Coal come to appoint privatisation advisers they could be challenged in the courts.

Accordingly I propose to include the necessary provision (probably a single clause) in my short Coal Industry Bill agreed for introduction in the 1991/92 programme. I envisage that the measure will be similar to the provision in respect of water and electricity privatisations in the Public Utility Transfers and Water Charges Act 1988.

If we are to achieve a successful privatised coal industry, British Coal will need to continue to make improvements in productivity. A significant proportion of the gains it has already made are attributable to more flexible working practices, in particular increased overtime working. The European Commission has proposed a Directive regulating the working hours of those employed in industry, to be adopted by 31 December 1992. Despite our opposition, I understand the Directive is very likely to be adopted.

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Because the Directive would restrict the amount of overtime that can be worked, its implementation threatens to jeopardise British Coal's productivity improvements. However, the Corporation believe they can accommodate the terms of the Directive and still preserve their current levels of productivity if they can operate longer but fewer shifts. They are currently prevented from doing this because the Coal Mines Regulation Act 1908 restricts the length of time that mineworkers can spend underground to seven and a half hours. Although this legislation has tacitly been ignored for many years, its continued existence would preclude reaching agreement on new formal working arrangements involving longer shifts.

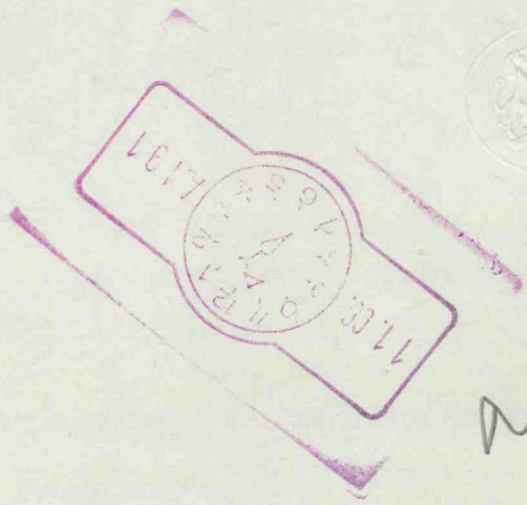
Because British Coal is a public body it will need to comply with the Directive as soon as it comes into force. The Corporation will need to negotiate new working hours agreements with the unions, having given notice to terminate existing agreements. This points to the need for early repeal of the 1908 Act. I understand that the Department of Employment do not contemplate introducing legislation to give general effect to the Directive, unless and until it is adopted. Clearly this would be too late for British Coal, as would be the main legislation to privatise the coal industry. The Coal Industry Bill therefore provides the only suitable means of repealing the 1908 Act within the required timescale, and accordingly I would wish to include in it a single appropriate clause.

I hope that you and other members of EA are content to give policy authorisation for a British Coal privatisation paving measure and for the repeal of the 1908 Act to be included in the Coal Industry Bill agreed for the next Session.

I am copying this minute to members of EA Committee, and to Sir Robin Butler.

SECRETARY OF STATE FOR ENERGY

// June 1991



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SR



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

13 June 1991

Dear John,

COAL INDUSTRY PRIVATISATION

The Prime Minister was grateful for your Secretary of State's minute of 11 June indicating that he wished to add certain clauses to the short Coal Industry Bill already agreed for 1991-92 programme.

Subject to any comments from colleagues, the Prime Minister is content for the Bill to include additional provisions in order to enable British Coal to appoint privatisation advisers. He is also content for clauses to be added which would repeal the 1908 Act, so as to enable more flexible working practices in response to potential restrictions under a new EC Directive on working hours.

I am copying this letter to the Private Secretaries to members of EA and to Sir Robin Butler.

Yours ever,

Barry

(BARRY H. POTTER)

John Neilson, Esq.,
Department of Energy.

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n.b PM
BHP
12/6

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PRIME MINISTER

12th June 1991

COAL INDUSTRY PRIVATISATION

John Wakeham minuted you yesterday concerning two matters in connection with coal privatisation.

a) Powers to Appoint Advisers

British Coal will require statutory powers to appoint privatisation advisers in due course;

b) Repeal of Mines Regulation Act 1908

This is a short statute that restricts the length of any single underground shift to 7½ hours. In practice it is ignored by all sides as it would prevent overtime.

It has become significant because a European Commission Directive regulating working hours is likely to come into force by December 1992. This measure threatens British Coal's productivity programme, but its effect could be mitigated by negotiation of longer shifts, which would contravene the 1908 Act. Hence the desire to repeal the 1908 Act.

You should not be concerned about the presentational aspects of repealing the Act:

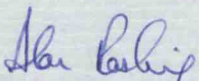
- i) Health & Safety Executive are not exercised by longer shifts, which in any case occur in practice already;

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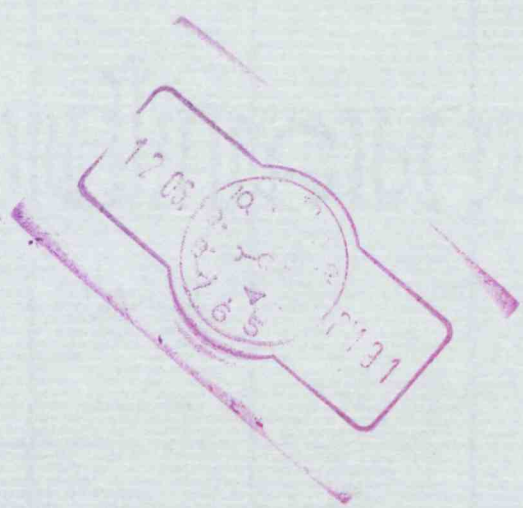
- ii) The effect of the repeal of the Act can be timed to coincide with the introduction of the EC Directive. The Secretary of State could be given powers to enforce the repeal if and when the Directive came into effect. Working hours would therefore be controlled at all times, and we could not be accused of putting miners' lives at risk.

DEn have discussed this with Employment, who are leading the resistance to the Directive. Their view is that this move would not weaken our position with the Commission on fighting the Directive.

You should feel able to authorise John Wakeham to bring forward both measures in his Coal Industry Bill next Session.


ALAN ROSLING

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Secretary of State
for Employment

cehr

*n. b. P.M.
BHP
18/6*

PRIME MINISTER

COAL INDUSTRY PRIVATISATION

I have seen John Wakeham's minute to you of 11 June. I am commenting on his proposal to use the forthcoming Coal Industries Bill to repeal the Coal Mines Regulation Act 1908 in the context of the draft EC Directive on Working Time, for which I am responsible.

On the substance of the case for repeal, I have no objection. If a Directive on Working Time is adopted, I accept that repeal of the 1908 Act, though not strictly required by the Directive, would enable the coal industry to adjust its working patterns without undue loss of productivity. Indeed, I understand from my officials' discussions with British Coal that repeal would be desirable in its own right.

I am however somewhat concerned about how the repeal is presented. We continue to resist the proposed Directive. It is not yet clear whether, and if so when, a Directive will be adopted, or what the date of implementation would be. I am therefore concerned that in any public statements on the subject the impression should not be given that we are reconciled to the adoption of a Directive. It would be preferable if the repeal were presented as a desirable measure in itself, with the possibility of a Directive as no more than a supporting consideration. I would ask that my Department be consulted closely about the presentational aspects, and should approve in advance any public comments concerning the Directive.

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Secretary of State
for Employment

On the timing of repeal, the draft Directive as it stands requires implementation by Member States by 31 December 1992. This is an unreasonable timetable and we would press to amend it. It has been suggested that the Directive might have 'direct application' to British Coal. But even if it has I see no reason why British Coal should be expected to comply before the date for implementation set out in the Directive itself. I do not therefore think that the matter is quite as urgent as John suggests. However, subject to my concerns over presentation being met, I have no objection to the Coal Industries Bill being used as a vehicle.

M. H.

M H

177 June 1991

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n.s. P.M.
JHP
1/7

[Handwritten signature]

The Rt. Hon. Peter Lilley MP
Secretary of State for Trade and Industry

The Rt Hon John Wakeham MP
Secretary of State for Energy
Department of Energy
1 Palace Street
LONDON
SW1E 5HE

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Direct Line
071-215 4440

DTI Enquiries
071-215 5000

1 July 1991

Dear John,

COAL INDUSTRY PRIVATISATION

Thank you for sending me a copy of your minute of 11 June to the Prime Minister. *Air*

I welcome your proposal for the additional provision in the Coal Industry Bill to facilitate the appointment of advisers by British Coal in preparation for privatisation.

I also strongly support the repeal of the Coal Mines Regulation Act 1908, to ensure that British Coal can continue to make productivity improvements.

I am sending copies of this letter to the Prime Minister, members of EA, and Sir Robin Butler.

Yours ever

Peter

PE6338

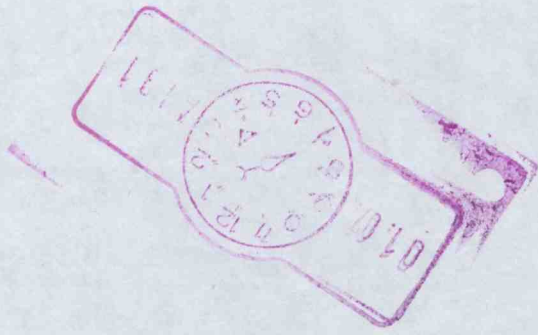
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the department for Enterprise



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NAT IMP COAL PIZZ





THE SCOTTISH OFFICE

From the Secretary of State

Dover House
Whitehall
London SW1A 2AU

The Rt Hon John Wakeham MP
Secretary of State for Energy
Department of Energy
1 Palace Street
LONDON
SW1E 5HE

*n.b. P.M.
BHP
29/6*

24 June 1991

Dear John,

COAL INDUSTRY PRIVATISATION

Thank you for copying to me your minute of 11 June to the Prime Minister about provisions which you wish to include in the Coal Industry Bill.

Neither of the 2 additional provisions which you describe in your minute causes me difficulty. I am therefore content for you to proceed as proposed.

I am copying this letter to the Prime Minister, members of EA and Sir Robin Butler.

*Yours ever,
Ian*

IAN LANG

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ccm

Treasury Chambers, Parliament Street, SW1P 3AG

John Neilson Esq
Private Secretary to the Secretary of State
Department of Energy
1 Palace Street
LONDON SW1

17 June 1991

Dear John,

COAL INDUSTRY PRIVATISATION

The Financial Secretary has seen a copy of your Secretary of State's minute of 11 June to the Prime Minister. I have seen a copy of Barry Potter's letter of 13 June to you.

The Financial Secretary strongly supports the Secretary of State's proposal to include two new clauses related to British Coal privatisation in the Coal Industry Bill. He believes it is essential that these clauses should be introduced in the 1991-92 session, to enable BC to appoint advisers immediately after the election; and to ensure that the EC Directive on working time does not prejudice BC's ability to achieve the improvements in productivity growth which are needed for it to be a credible privatisation candidate.

I am copying this letter to Barry Potter, the private secretaries to other members of EA, and to Sir Robin Butler.

*Yours sincerely,
Philip Rutnam*


PHILIP RUTNAM
Private Secretary

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MAAT (NO. 62) 2270

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 MR POTTER

17th May 1991

COAL PRIVATISATION

I thought you should be aware that DEN are only expecting to announce the appointment of financial advisers in 'early June'. That would not give the advisers much time before the PM's deadline of the summer recess for advice on whether the fast track is possible.

The beauty contest is next week, and I can see no reason why an announcement could not be made in the week commencing 27th May.



ALAN ROSLING

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