



# Mines Act (Northern Ireland) 1969

## 1969 CHAPTER 6

### PART XII **N.I.**

#### OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

#### 130 **Offences. **N.I.****

- (1) In the event of a contravention, in relation to a mine, of—
- (a) a provision of this Act, of an order made thereunder or of regulations, not being a provision which expressly provides that a person is to be guilty of an offence; or
  - (b) a direction, prohibition, restriction or requirement given or imposed by a notice served under or by virtue of this Act by<sup>F1</sup> the Executive] or an inspector; or
  - (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by<sup>F1</sup> the Executive];
  - <sup>F2</sup>(d) a requirement or prohibition imposed by or under health and safety regulations which expressly apply to all mines, any class of mine to which the mine belongs or the mine;]

each of the following persons shall, subject to the following provisions of this Act, be guilty of an offence, namely, the owner of the mine, any person to whom written instructions have been given by the owner in pursuance of section 1 specifying as, or including amongst, the matters with respect to which that person is charged with securing the fulfilment in relation to the mine of statutory responsibilities of the owner, matters of the class to which the provision, direction, prohibition, restriction, requirement or condition relates, the manager of the mine, any person who is for the time being treated for the purposes of this Act as the manager, every under-manager of the mine and any person who is for the time being treated for the purposes of this Act as an under-manager thereof.

- (2) In the event of a contravention, in relation to a mine, by a person other than one mentioned in subsection (1), of such a provision as is mentioned in paragraph (a) of that subsection, [<sup>F3</sup> or such a requirement or prohibition as is mentioned in paragraph (

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*d*) of that subsection, whereby there is expressly imposed on that person or on persons of a class to which he belongs a duty or requirement or he or persons of a class to which he belongs or all persons are expressly prohibited] from doing a specified act, the person who contravened that provision, as well as the persons mentioned in subsection (1), shall be guilty of an offence.

(3) Neither the manager of a mine as such nor a person who is for the time being treated for the purposes of this Act as the manager of a mine, nor an under-manager of a mine, nor a person who is for the time being treated for the purposes of this Act as such an under-manager shall, by virtue of subsection (1), be guilty of an offence by reason of a contravention by the owner of the mine of—

- (a) any provision of this Act, of an order made thereunder or of regulations, being a provision which expressly imposes on the owner of the mine a duty or requirement or a prohibition; or
- (b) any prohibition, restriction or requirement which, by virtue of a notice served under or by virtue of this Act by<sup>F1</sup> the Executive] or an inspector, is expressly imposed on the owner of the mine; [<sup>F2</sup> or
- (c) any requirement or prohibition expressly imposed by or under such health and safety regulations as are mentioned in paragraph ( *d* ) of subsection (1) of this section on the owner of the mine;]

or of a contravention of section 3.

**F1** SR 1999/150

**F2** SR 1980/333

**F3** SR 1980/333

### **131 Supplementary provisions as to offences. N.I.**

(1) Without prejudice to the operation of section 8 of the Accessories and Abettors Act 1861 and<sup>F4</sup> Article 59 of the Magistrates' Courts (Northern Ireland) Order 1981], any person who induces or procures, or consents to or connives at, the commission of an offence under this Act, shall be guilty of an offence.

(2) If any persons are employed at a mine otherwise than in accordance with the provisions of this Act, orders made thereunder and regulations, there shall be deemed to be a separate contravention in respect of each person so employed.

(3) If a person acts as manager of a mine in contravention of the provisions of subsection (1) of section 5, of any condition attached to an approval granted under that subsection or of a direction given by a notice served under subsection (2) of that section, there shall be deemed to be a separate contravention in relation to each mine as manager of which he acts.

**F4** 1981 NI 26

### <sup>F5</sup>**132 Working, &c., of horses in parts of mine below ground. N.I.**

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**F5** S. 132 repealed (1.2.2017) by [The Mines Regulations \(Northern Ireland\) 2016 \(S.R. 2016/427\)](#), reg. 1(2), [Sch. 3](#)

### 133 **Penalty for offences for which no express penalty is provided.** **N.I.**

- (1) A person guilty of an offence under [<sup>F6</sup> section 129(1) of] this Act ...<sup>F7</sup> shall be liable—
- (a) if he is the owner of a mine, a person to whom instructions have been given by the owner of a mine in pursuance of section 1, the manager of a mine, a person who is for the time being treated for the purposes of this Act as the manager of a mine, an under-manager of a mine, a person who is for the time being treated for the purposes of this Act as such an under-manager or the surveyor for a mine, to a fine not exceeding two hundred pounds; and
  - (b) if not, to a fine not exceeding twenty pounds;
- (2) Where a person is convicted of an offence under [<sup>F6</sup> section 129(1) of] this Act and the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable, in addition to any other penalty, to a fine not exceeding five pounds for each day on which the contravention is so continued.
- (3) Where the court by which a person is convicted of any such offence as aforesaid is satisfied that the contravention in respect of which he is convicted—
- (a) was likely to cause the death of, or serious bodily injury to, a person employed at the mine in relation to which the contravention occurred or a dangerous accident; or
  - (b) was likely to endanger the safety of any such person;

the court may impose upon the person convicted (either in addition to, or in substitution for, a fine) imprisonment for a term not exceeding three months.

**F6** SR 1980/333  
**F7** SR 1980/333

### 134 **Defence available to person charged with offence not committed personally.** **N.I.**

In any proceedings under this Act which, by virtue of section 130(1), are taken against a person in respect of the contravention by a person other than himself of—

- (a) a provision of the Act, of an order made thereunder or of regulations, being a provision which expressly imposes on that other person or on persons of a class to which, at the time of the contravention, he belonged, a duty or requirement or expressly prohibits him or persons of such a class or all persons from doing a specified act; or
- (b) a prohibition, restriction or requirement which by virtue of a notice served under or by virtue of this Act by [<sup>F8</sup> the Executive] or an inspector is expressly imposed on that other person; [<sup>F9</sup> or
- (c) a requirement or prohibition imposed by or under health and safety regulations which expressly apply to all mines, any class of mine or a particular mine being a requirement expressly imposed on that person or on persons of a class to which, at the time of the contravention, he belonged, or a prohibition

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expressly imposed on him or on persons of such class or on all persons from doing a specified act;]

it shall be a defence for the person charged to prove that he used all due diligence to secure compliance with the provision, prohibition, restriction or requirement, as the case may be.

**F8** SR 1999/150  
**F9** SR 1980/333

**135 Persons not to be under liability for contraventions which it was impracticable to avoid or prevent. N.I.**

It shall be a defence in any legal proceedings to recover damages and in any prosecution, in so far as the proceedings or prosecution are or is based on an allegation of a contravention, in relation to a mine, of—

- (a) a provision of this Act, of an order made thereunder or of regulations (not being a provision which expressly provides that a person is to be guilty of an offence); or
- (b) a direction, prohibition, restriction, or requirement given or imposed by a notice served under or by virtue of this Act by<sup>[F10]</sup> the Executive] or an inspector; or
- (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by<sup>[F10]</sup> the Executive]; <sup>[F11]</sup> or
- (d) a requirement or prohibition imposed by or under such health and safety regulations as are mentioned in subsection (1)(d) of section 130 of this Act;]

to prove that it was impracticable to avoid or prevent the contravention.

**F10** SR 1999/150  
**F11** SR 1980/333

<sup>F12</sup>**136 Special defence available to mine under-managers with limited jurisdiction. N.I.**

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**F12** [S. 136](#) repealed (1.2.2017) by [The Mines Regulations \(Northern Ireland\) 2016 \(S.R. 2016/427\)](#), reg. 1(2), [Sch. 3](#)

**137 Liability of owners for breaches of statutory duty by their servants. N.I.**

For the removal of doubts it is hereby declared that the owner of a mine is not absolved from liability to pay damages in respect of a contravention, in relation to the mine, by a person employed by him of—

- (a) a provision of this Act, of an order made thereunder or of regulations; or
- (b) a prohibition, restriction or requirement imposed by a notice served under or by virtue of this Act by<sup>[F13]</sup> the Executive] or an inspector;

by reason only that the provision contravened was one which expressly imposed on that person or on persons of a class to which, at the time of the contravention, he

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belonged, a duty or requirement or expressly prohibited that person, or persons of such a class or all persons from doing a specified act or, as the case may be, that the prohibition, restriction or requirement was expressly imposed on that person or that that person was, in pursuance of this Act or regulations, appointed by a person other than the owner.

**F13** SR 1999/150

### **138 Liability of parents for unlawful employment of young persons. N.I.**

If a young person is employed at a mine in contravention of the provisions of this Act or regulations, the parent of the young person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding<sup>F14</sup> level 2 on the standard scale], unless it appears to the court that the contravention occurred without the consent, connivance or wilful default of the parent.

**F14** 1984 NI 3

*S.139 rep. by SR 1980/333*

### **<sup>F15</sup>140 Removal or defacement of notices, &c. N.I.**

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**F15** S. 140 repealed (1.2.2017) by [The Mines Regulations \(Northern Ireland\) 2016 \(S.R. 2016/427\)](#), reg. 1(2), [Sch. 3](#)

### **141 Prosecution of offences. N.I.**

(1) Any offence under [<sup>F16</sup> section 129(1) of] this Act ...<sup>F17</sup> be tried ...<sup>F17</sup> summarily ...<sup>F17</sup>.

*Subs.(2)#(5) rep. by SR 1980/333*

**F16** SR 1980/333

**F17** SR 1980/333

### **142 Restriction on institution of certain proceedings. N.I.**

No proceedings for an offence under [<sup>F18</sup> section 129(1) of] this Act shall be instituted against any such person as is mentioned in section 133(1)( a) except by an inspector or by or with the consent of the Ministry or the Attorney General.

**F18** SR 1980/333

### **143 Duty to report results of proceedings against persons employed at mines. N.I.**

(1) An owner or manager of a mine by whom are instituted proceedings against a person employed at the mine for an offence under this Act shall, within twenty-one days after the conclusion of the trial of that person for that offence, give to<sup>F19</sup> the Executive]

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notice of the result of the trial and shall also, within twenty-one days after the conclusion of any proceedings by way of appeal arising out of the trial, give to<sup>F19</sup> the Executive] notice of the result of those proceedings.

- (2) For the purposes of this section the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal.

**F19** SR 1999/150

#### **144 Liability of parents for unlawful employment of children. N.I.**

For the purposes of any proceedings under this Act in respect of the employment of children in contravention of section 1 of the Employment of Women, Young Persons and Children Act 1920 <sup>M1</sup> (which contains provisions that prohibit the employment of children in factories, mines and quarries and, so far as they relate to mines, are incorporated with this Act), the references in section 138 to a young person shall be construed as including references to a child within the meaning of the said section 1.

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##### **Marginal Citations**

**M1** 1920 c. 65

**Changes to legislation:**

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