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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 173**

**HEALTH AND SAFETY**

**Escape and Rescue from Mines  
Regulations (Northern Ireland) 1999**

*Made* - - - - *31st March 1999*

*Coming into operation* *10th May 1999*

The Department of Economic Development, being the Department concerned<sup>(1)</sup>, in exercise of the powers conferred on it by Articles 17(1) to (6) and (8) and 55(2) of, and paragraphs 1(1) and (2), 3, 5 to 10, 13, 14(1), 15, 17, 19 and 20(a) and (b) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978<sup>(2)</sup> and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

**PART I**

**INTERPRETATION AND GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Escape and Rescue from Mines Regulations (Northern Ireland) 1999 and shall come into operation on 10th May 1999.

**Interpretation**

2. In these Regulations—

“the 1969 Act” means the Mines Act (Northern Ireland) 1969<sup>(3)</sup>;

“the 1992 Regulations” means the Management of Health and Safety at Work Regulations (Northern Ireland) 1992<sup>(4)</sup>;

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(1) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(2) S.I. 1978/1039 (N.I. 9) as amended by S.I. 1998/2795 (N.I. 18)

(3) 1969 c. 6 (N.I.); extended by the Mines and Quarries (Tips and Tipping Plans) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 296); relevant amending Regulations are S.R. 1991 No. 239

(4) S.R. 1992 No. 459; relevant amending Regulations are S.R. 1994 No. 478

“breathing apparatus” means apparatus designed for use in rescue operations in mines which is of a self-contained closed-circuit type, whereby the concentration of carbon-dioxide in the exhaled air is reduced and the concentration of oxygen increased prior to reinhalation, and is used either with a full facepiece or with a mouthpiece and noseclip;

“emergency accommodation” shall be construed in accordance with regulation 5;

“emergency instructions” shall be construed in accordance with regulation 11;

“emergency plan” shall be construed in accordance with regulation 4;

“emergency situation” means a situation which renders necessary either or both the evacuation and rescue of persons from a mine;

“the Executive” means the Health and Safety Executive for Northern Ireland;

“firedamp” means any flammable gas or any flammable mixture of gases occurring naturally in a mine;

“fresh air base” means a place where the air is respirable as near as practicable to the place in which rescue work has to be carried out;

“irrespirable atmosphere” means an atmosphere which it is unsafe for a person to breathe as a result of either oxygen depletion or the presence of toxic fumes or gases;

“manager” means, in relation to any mine, the person appointed under section 2, or any person temporarily appointed under section 7, of the 1969 Act as the manager of that mine, and, for the purposes of regulations 9 and 14(1)(b), includes an under-manager of the mine and any person who is for the time being treated for the purposes of the 1969 Act as the manager or an under-manager of the mine;

“mine” means a mine within the meaning of the 1969 Act;

“mine rescue scheme” means any scheme or other arrangements the participants in which are entitled, in an emergency, to the services of persons with the expertise and equipment required for rescuing individuals from below ground at a mine;

“owner” means any owner within the meaning of section 157 of the 1969 Act;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983(5);

“safe haven” means a place below ground at a mine which is provided with facilities such that persons may wait there in safety to be rescued;

“self-rescuer” means respiratory protective equipment designed for use while escaping from a mine; and

“tourist mine” means a mine the principal activity of which is to demonstrate the mine or the workings of the mine, to persons not employed at the mine, rather than the getting of minerals or the products of minerals.

### **Application of these Regulations**

- 3.—(1) Except where otherwise expressly provided, these Regulations shall apply to all mines.
- (2) Subject to paragraph (3), Part IV shall apply to—
- (a) a mine of coal;
  - (b) any other mine containing zones below ground in which firedamp, whether or not normally present, is likely to occur in a quantity sufficient to indicate danger; or

- (c) any other mine where an irrespirable atmosphere requiring the use of breathing apparatus is likely to occur below ground.
- (3) Regulations 12(2), 13 and 14 together with Part IV shall not apply to a tourist mine.

## PART II

### ESCAPE AND EMERGENCY ORGANISATION

#### **Emergency plan**

4.—(1) The manager of every mine shall prepare and maintain a written plan (in these Regulations referred to as an “emergency plan”) setting out the action to be taken to effect safely and promptly the evacuation and rescue of persons from the mine should an emergency situation occur.

(2) In preparing an emergency plan the manager shall have regard to any relevant risk assessment made in accordance with regulation 3 of the 1992 Regulations.

(3) The manager shall make a thorough review of the emergency plan—

(a) whenever—

- (i) there is reason to suspect that the emergency plan is no longer appropriate;
- (ii) there has been a significant change either in the matters to which the emergency plan relates, or in the ownership or operation of the mine;
- (iii) the risk assessment referred to in paragraph (2) is reviewed; or
- (iv) the plan has been put into action; and

(b) in any event at least once every twelve months.

(4) Where as a result of any such review any change to the emergency plan or to the action to be taken under it is required the manager shall make such change and shall keep a record of any action taken as a result.

(5) The manager shall—

- (a) ensure that the appropriate action set out in the emergency plan is taken should an emergency situation occur; and
- (b) keep, readily available at the mine, a sufficient number of copies of the emergency plan as amended from time to time.

#### **Emergency accommodation**

5.—(1) The owner of every mine shall provide on the surface at the mine suitable accommodation which is sufficient for any persons who may be engaged in the rescue of persons from below ground or practising such work and located near to a shaft or entrance which gives convenient access to all parts of the mine.

(2) The manager of every mine shall appoint a competent and suitably experienced person to be in charge of the emergency accommodation.

#### **Emergency equipment**

6.—(1) The owner of every mine shall make effective arrangements to ensure that appropriate equipment is promptly available for use at all times in any operation involving escape or rescue from the mine.

(2) The manager of every mine shall take effective steps to ensure that the equipment referred to in paragraph (1) is maintained in good condition and ready for use at all times and is stored in an easily accessible place.

### **Mine plans for emergency use**

7. The owner of every mine shall keep readily available at the mine a sufficient number of plans of the workings of the mine which are suitable for use in an emergency situation.

### **Warning and other communication systems**

8.—(1) The owner of every mine shall establish and maintain the necessary warning and other communication systems to enable assistance, escape and rescue operations to be launched forthwith if necessary.

(2) The manager of every mine shall ensure that in the event of an emergency situation occurring at the mine the warning and communication systems referred to in paragraph (1) are put into operation forthwith.

### **Access in an emergency situation**

9. The manager of every mine shall take effective steps to ensure that in the event of an emergency situation occurring at the mine only persons authorised by the manager of the mine go below ground at the mine or enter an affected area on the surface and that an accurate record of the names of such persons is kept.

### **Arrangements for escape**

10.—(1) The owner of every mine shall provide—

- (a) where necessary, suitable self-rescuers for all persons going below ground at the mine; and
- (b) where necessary, safe havens or facilities for the exchange and recharge of self-rescuers.

(2) The manager shall ensure that—

- (a) every person issued with a self-rescuer under paragraph (1) has been instructed how to use it and does not go below ground without it; and
- (b) the self-rescuers are checked regularly, are maintained in good condition and are stored in a suitable place at the mine when not in use.

(3) Every person at a mine who is provided with a self-rescuer shall keep the self-rescuer with him and available for use at all times when he is below ground at the mine.

### **Training and information**

11.—(1) The manager of every mine shall ensure that—

- (a) all persons who work at the mine are trained in the appropriate actions to be taken in the event of an emergency situation occurring at the mine and in the use of equipment to be used in an emergency situation and shall ensure that practices of the actions are held at regular intervals; and
- (b) all other persons who go below ground at the mine receive information on the appropriate actions to be taken in the event of an emergency situation occurring at the mine and in the use of equipment to be used in an emergency situation.

(2) The manager of every mine shall ensure that each person who works at the mine receives appropriate written instructions and information on the actions to be taken in the event of an

emergency situation occurring at the mine as is appropriate having regard to the provisions of the emergency plan.

(3) The manager of every mine shall ensure that a copy of the emergency plan and the emergency instructions for the time being in force shall be kept in the covered accommodation provided at the mine in accordance with section 114 of the 1969 Act.

(4) Every person at work at the mine shall comply with the emergency instructions.

## PART III

### RESCUE GENERAL DUTIES

#### Effective arrangements for rescue

**12.**—(1) A mine shall not be worked unless the owner has made effective arrangements suitable for the mine both—

- (a) for the rescue of persons from the mine; and
- (b) for the carrying out of work necessary to secure the health and safety of persons below ground in the mine in an emergency situation.

(2) Without prejudice to the generality of paragraph (1)—

- (a) every owner of a mine of a type described in regulation 3(2) shall—
  - (i) make effective arrangements to ensure that two rescue teams of five trained and fully equipped rescue team members are available to attend at the mine should an emergency situation requiring the use of breathing apparatus occur below ground at the mine;
  - (ii) make effective arrangements to ensure that the rescue teams referred to in head (i) are capable of reaching the mine within sixty minutes of being notified of such an emergency situation occurring below ground at the mine; and
  - (iii) secure that the rescue team members referred to in head (i) reach the mine within sixty minutes of being notified of such an emergency situation occurring below ground at the mine; and
- (b) every owner of a mine of coal shall make effective arrangements to ensure that sufficient trained and fully equipped rescue team members are available as required to provide a continuous twenty-four hour rescue service following an emergency situation occurring below ground at the mine.

#### Mines of coal

**13.**—(1) Without prejudice to the provisions of regulation 12, a mine of coal shall not be worked unless the owner of the mine is a participant in a mine rescue scheme approved by the Executive.

(2) In paragraph (1), the reference to participating in a mine rescue scheme includes participating on terms so that the participants are entitled, in an emergency, to the services of persons with the expertise and equipment required for rescuing individuals from underground.

(3) The Executive shall only approve a mine rescue scheme if the scheme appears to the Executive to be such as secures that it is reasonably practicable for every owner of a mine of coal who is required to do so to participate, on reasonable terms, in the scheme.

(4) The Executive shall only give its approval to, or withdraw its approval from, a mine rescue scheme after it has consulted any persons whom it considers to be appropriate.

## **Inspection**

- 14.—(1) The owner of every mine of coal shall make arrangements—
- (a) for any person designated under the relevant mine rescue scheme to inspect the emergency accommodation and equipment provided in accordance with regulations 5 and 6;
  - (b) for the person referred to in sub-paragraph (a) to be accompanied by the manager of the mine; and
  - (c) for any defect or deficiency disclosed by the inspection to be reported to the manager of the mine.
- (2) The manager of every mine of coal shall—
- (a) provide the person referred to in paragraph (1)(a) with a copy of the current emergency plan;
  - (b) ensure that appropriate and prompt action is taken to remedy any defect or deficiency which is reported in accordance with paragraph (1)(c); and
  - (c) keep a record of the results of any inspection carried out in accordance with paragraph (1), of any defect or deficiency which is reported in accordance with paragraph (1)(c) and of any action taken under paragraph (2)(b).

## **PART IV**

### **RESCUE TEAM AND CONDUCT OF RESCUE OPERATIONS**

#### **Rescue team**

15. Each rescue team shall comprise five rescue team members one of whom shall be the rescue team captain.

#### **Rescue team member**

16.—(1) The manager of every mine shall, where there are suitable employees at the mine to act as rescue team members, select an appropriate number of them to so act and shall ensure that they are properly trained as rescue team members and are available to act in that capacity.

(2) A person, whether an employee at a mine or otherwise, shall not serve as a rescue team member unless he is suitably qualified and experienced and he has, within the last preceding twelve months—

- (a) been certified by a suitably qualified and registered medical practitioner, after thorough examination, to be fit to undertake rescue work using breathing apparatus; and
- (b) attended a suitable course of initial or further training and practice in rescue work and he has been certified, by the person in charge of the course, to be proficient and to be able to undertake rescue work with breathing apparatus.

#### **Training in use of breathing apparatus**

17. Only competent and suitably experienced persons may train rescue team members for rescue operations involving the use of breathing apparatus.

#### **Medical examination in connection with breathing apparatus**

18.—(1) Subject to paragraph (2) the manager of every mine shall ensure that—

- (a) rescue team members are examined by a suitably qualified and registered medical practitioner before each wearing of breathing apparatus in an irrespirable atmosphere other than such a wearing for training purposes; and
- (b) rescue team members do not wear breathing apparatus unless they are found fit to do so by the registered medical practitioner referred to in sub-paragraph (a).

(2) Paragraph (1) shall not apply in any situation where the carrying out of an examination referred to in paragraph (1)(a) would prejudice an attempt to save life.

#### **Fitness to undertake rescue work**

19. Each rescue team member shall at once report to the appropriate person at the mine if at any time the rescue team member is aware of any reason why he may not be fit to undertake rescue work.

#### **Records**

20. The manager of every mine shall—

- (a) take effective steps to ensure that records of medical examinations and of training provided to the rescue team members who are employees at the mine are maintained; and
- (b) provide each such rescue team member with a document bearing a recent photograph of that rescue team member and setting out the results of the medical examinations undergone by that rescue team member and a summary of the training and practices undertaken by that rescue team member.

#### **Rescue team captain**

21.—(1) At all times during a rescue operation the rescue team shall be under the immediate control of the rescue team captain.

(2) Every rescue team captain shall during a rescue operation direct the rescue team and use his best endeavours to secure its safety.

#### **Rescue officer**

22.—(1) Subject to paragraph (2), the manager of every mine shall ensure that any operation during which it is reasonably foreseeable that breathing apparatus could be required is undertaken under the direction of a rescue officer acting under the overall control of the manager.

(2) Paragraph (1) shall not prevent rescue team members from carrying out operations wearing breathing apparatus in the absence of such a rescue officer in circumstances where in the opinion of the manager, which is reasonably held in the circumstances, a delay would endanger life.

#### **Role of rescue officer**

23. Every rescue officer or other person in charge of operations involving rescue team members wearing breathing apparatus shall work to secure the safety of rescue team members and to ensure that the operations are carried out with due regard to the safety of the rescue team members.

#### **Manager to have regard to advice of rescue officers**

24. The manager of every mine shall consult the rescue officers during any operation which requires any member of a rescue team to wear breathing apparatus at the mine and shall give due consideration to any recommendation received from any of the rescue officers.

### **Qualification and experience of rescue officers**

**25.** A person shall not be permitted to serve as a rescue officer unless that person is a suitably experienced, competent and qualified individual.

### **Breathing apparatus**

**26.—(1)** A person at a mine shall not wear breathing apparatus unless trained and certified fit to do so in accordance with regulation 16(2)(a).

(2) The owner of every mine shall make effective arrangements to ensure that—

(a) breathing apparatus is not issued for use or worn unless—

(i) it is suitable for its intended purpose; and

(ii) it has been properly maintained and regularly tested by an authorised competent person; and

(b) breathing apparatus is stored in a suitable place.

(3) The manager of every mine shall take effective steps to ensure that there is kept, in a suitable permanent form, a record of all testing, analysis, service and maintenance carried out on the breathing apparatus in pursuance of these Regulations.

(4) Each rescue team member shall carry out a suitable test or examination on receiving breathing apparatus, before going underground and before going beyond any fresh air base and shall inform a rescue officer forthwith if in the opinion of the rescue team member the breathing apparatus is not in full working order.

(5) A rescue officer informed that breathing apparatus is not in full working order under paragraph (4) shall either withdraw the breathing apparatus from service or rectify the fault and satisfy himself that the apparatus is in full working order.

### **Signals**

**27.—(1)** In rescue work and training for rescue work the number of audible signals specified in the Schedule and no other shall be used between the members of a rescue team below ground for the purposes specified in relation thereto in the Schedule.

(2) The signals referred to in paragraph (1) are to be effected by a whistle or other device which produces clearly audible signals.

## **PART V**

### **MISCELLANEOUS**

#### **Power of exemption**

**28.—(1)** Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any mine or class of mine or any person or class of person from all or any of the prohibitions or requirements imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Executive by a further certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

(a) the conditions, if any, which it proposes to attach to the exemption; and

(b) any other requirements imposed by or under any statutory provisions which apply to the case,



it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

### **Dissapplication of section 135 of the 1969 Act**

**29.** Section 135 of the 1969 Act shall not apply to any legal proceedings or prosecution which are based on an allegation of a contravention of these Regulations.

### **Defence in proceedings for contravention of regulation 12(2)(a)(iii)**

**30.** In any proceedings against a person for an offence consisting of a contravention of regulation 12(2)(a)(iii), it shall be a defence for that person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

### **Revocations**

**31.—**(1) Regulations 14 to 27 of, and Schedules 1 and 2 to, the Coal and Other Mines (Fire and Rescue) Regulations (Northern Ireland) 1970(6) (“the 1970 Regulations”) are hereby revoked.

(2) In regulation 2 of the 1970 Regulations the words “and Part IV thereof to every mine of coal or shale, other than a mine at which not more than ten persons are employed below ground,” are hereby revoked.

(3) In regulation 3 of the 1970 Regulations the definition of “fresh air base” is hereby revoked.

Sealed with the Official Seal of the Department of Economic Development on

L.S.

31st March 1999.

*John J. L. Francey*  
Assistant Secretary

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## Schedule

Regulation 27

**Number of Repetitions of the Audible Signal**

<i>Purposes</i>	<i>Number of signals</i>
'Distress' or 'Help wanted' (If no answer is given to a call, 'Distress' is to be understood)	ONE signal
Halt	TWO signals
Retire	THREE signals
Advance	FOUR signals
To call attention	FIVE signals

**EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

1. These Regulations impose requirements with respect to the escape and rescue from mines. The Regulations also give effect (in Northern Ireland and to the extent specified below) to Council Directive [92/104/EEC](#) concerning the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries.

2. The Regulations implement the Directive with respect to—
- safety drills (Article 3.1.(f) and Point 11, Part A of the Annex);
  - escape and rescue facilities (Article 5);
  - communication, warning and alarm systems (Article 6);
  - means of evacuation and escape (Point 10, Part A of the Annex);
  - precautions for withdrawal of workers (Point 12, Part C of the Annex);
  - rescue organisation (Point 15, Part C of the Annex).

**Part I — Interpretation and General**

3. Pursuant to regulation 3 these Regulations apply to all mines except for specified regulations which do not apply to tourist mines, and Part IV (which makes provision for rescue teams and the conduct of rescue operations) which applies only to coal mines, any other mine containing zones below ground in which firedamp occurs in sufficient quantity to indicate danger and any other mine where the atmosphere below ground is such as to require the use of breathing apparatus.

**Part II — Escape and Emergency Organisation**

4. *Regulation 4* provides that the manager of every mine shall prepare, maintain and review a written emergency plan for the evacuation and rescue of persons from the mine in an emergency

situation. The manager is required to ensure that the appropriate action set out in the plan is taken in such a situation. *Regulation 5* contains requirements in relation to the provision of accommodation at a mine for those persons involved in rescue operations. *Regulation 6* contains requirements for emergency equipment to be available for use at all times, maintained in good condition and stored in an easily accessible place. *Regulation 7* requires the owner of every mine to keep readily available plans of the mine suitable for use in an emergency situation. *Regulation 8* requires the owner of every mine to establish and maintain warning and communication systems for escape and rescue operations and requires the manager to ensure that they are put into use in an emergency situation. *Regulation 9* contains requirements in relation to authorised access below ground in an emergency situation. *Regulation 10* contains requirements with regard to the provision and maintenance of self-rescuers (as defined in regulation 2(2)). *Regulation 11* requires the manager of every mine to ensure that all persons who work at the mine are trained in, and all other persons who go below ground at the mine receive information on, the appropriate action to be taken and the use of equipment to be used in an emergency situation.

### **Part III — Rescue General Duties**

5. *Regulation 12* provides that no mine shall be worked unless the owner has made effective arrangements suitable for the rescue of persons from the mine and for the carrying out of work necessary to secure the health and safety of persons below ground in an emergency situation. The regulation contains further requirements with regard to those mines to which Part IV applies. In particular it requires owners to make effective arrangements to ensure that in certain circumstances there are two rescue teams available who can reach the mine within sixty minutes and with regard to coal mines that there is a twenty-four hour rescue service available following an emergency situation below ground. *Regulation 13* provides that no coal mine shall be worked unless the owner is a participant in a mine rescue scheme approved by the Health and Safety Executive for Northern Ireland (“the Executive”). *Regulation 14* places requirements on the owner and manager of a coal mine with regard to the inspection of emergency accommodation and equipment by any person designated under the relevant mine rescue scheme. It requires the manager to ensure that action is taken to remedy any defects found.

### **Part IV — Rescue Team and Conduct of Rescue Operations**

6. *Regulations 15 and 16* contain requirements as to the number of persons to serve in a rescue team and the qualification and experience required in order to serve on a rescue team. *Regulation 17* provides that only competent and suitably experienced persons may train rescue team members for rescue operations involving the use of breathing apparatus. *Regulation 18* contains requirements as to the medical examination of rescue team members who are to use breathing apparatus in rescue operations. *Regulation 19* requires each team rescue member to report to the appropriate person if aware of any reason why he may not be fit to undertake rescue work. *Regulation 20* contains requirements as to the records to be kept of medical examinations and training of rescue team members. *Regulation 21* provides for a rescue operation to be under the immediate control of the rescue team captain. *Regulation 22* requires the manager to ensure that where reasonably foreseeable that breathing apparatus could be required in any operation, it is undertaken under the direction of a rescue officer. *Regulation 23* provides that every rescue officer or other person in charge of operations which involve rescue team members wearing breathing apparatus shall work to secure the safety of rescue team members. *Regulation 24* contains a requirement as to consultation with the rescue officer. *Regulation 25* concerns the qualification and experience of rescue officers. *Regulation 26* contains requirements in relation to training for the use of breathing apparatus and the maintenance and testing of that apparatus. *Regulation 27 and the Schedule* contain requirements in relation to the audible signals to be used in rescue work and training for rescue work.

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## **Part V — Miscellaneous**

7. *Regulation 28* enables the Executive to make exemptions from the prohibitions and requirements of these Regulations. *Regulation 29* provides that section 135 of the Mines Act (Northern Ireland) 1969 (which provides a defence to legal proceedings in certain circumstances) shall not apply to any prosecution or other proceedings based on an alleged contravention of these Regulations. *Regulation 30* provides a defence of having taken all reasonable precautions and exercised all due diligence in certain proceedings arising out of regulation 12.

8. A person who contravenes the Regulations or any requirement or prohibition imposed thereunder is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.