



Mines (Working Facilities and Support) Act 1923

1923 CHAPTER 20 13 and 14 Geo 5

PART II

MINERALS UNDER RAILWAYS

16 Application to existing railways, &c.

(1) Where—

- (a) a special Act, order, scheme, or certificate confirmed by or having the force of an Act of Parliament relating to a railway company, passed or confirmed before the commencement of this Act, incorporates sections seventy-eight to eighty-five, inclusive, of the ^{M1}Railways Clauses Consolidation Act 1845, and does not prescribe any distance in lieu of the distance of forty yards mentioned in section seventy-eight of that Act; or
- (b) a special Act relating to a railway company, passed before the commencement of this Act, does not incorporate the said sections, but contains provisions similar thereto, and by the provision similar to the said section seventy-eight prescribes a distance of forty yards;

the Act, order, scheme, or certificate shall, as from the commencement of this Act, take effect as if the provisions which by this Part of this Act are to be substituted for the said sections seventy-eight to eighty-five were substituted for those sections as incorporated in the Act, order, scheme, or certificate or for the similar provisions contained in the special Act as the case may be, and as if the Act, order, scheme, or certificate incorporated or included the First, Second, and Third Schedules to this Act, subject, however, to the provisions hereinafter contained in this section.

- (2) If at the commencement of this Act minerals lying under the outer area of protection are being worked by a mine owner, he shall, within one month after the commencement of this Act, give such notice as would after the commencement of this Act have been required to be given before such minerals were commenced to be worked, and, if such notice is so given, it shall be deemed for the purposes of the provisions of section

Changes to legislation: There are currently no known outstanding effects for the Mines (Working Facilities and Support) Act 1923, Section 16. (See end of Document for details)

seventy-eight of the ^{M2}Railways Clauses Consolidation Act 1845, as amended by this Act, to have been given more than thirty days before the date on which it is in fact given, and the minerals worked before the notice is given shall, for the purposes of the same provisions, be deemed to have been worked since the expiration of those thirty days.

- (3) Any mine owner shall be liable to contribute towards the expenses properly incurred by the railway company subsequent to the commencement of this Act in making good damage caused to any railway or works of the company by any working of minerals within the six years immediately preceding the commencement of this Act in like manner as if this Act had been in force at the date of such working; but, save as aforesaid, the mine owner shall be relieved of all liability to the company with respect to the working of any minerals prior to the passing of this Act, except a liability arising under an arrangement with the company.

The provisions of subsections (2), (3), (4), (5) and (6) of section 79A of the ^{M3}Railways Clauses Consolidation Act 1845, as amended by this Act, shall apply in respect of the liability of a mine owner under this subsection in like manner as they apply in respect of his liability under that section.

- (4) Nothing in this section shall—
- (a) take away, diminish or prejudicially alter or affect any estate right or interest in minerals which may have been acquired by a railway company before the commencement of this Act under or by virtue of any express provision in any deed or contract, or under or by virtue of the exercise of their powers under sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, or any right of support from minerals which any such company may have so acquired, or any compensation paid or payable by any such company in consequence of the exercise before the commencement of this Act of any such powers as aforesaid; or
- (b) affect any agreement subsisting between a railway company and a mine owner or a royalty owner at the commencement of this Act with regard to the working of, or the leaving unworked, minerals lying under or near to any railway or works of the company, so long as the agreement continues in force, and any such agreement shall, notwithstanding anything in this section, continue in force until determined by effluxion of time, or by the exercise of any power to determine it conferred by the agreement, nor shall anything in this section prevent the entering into a new agreement.

Marginal Citations

M1 1845 c. 20.

M2 1845 c. 20.

M3 1845 c. 20.

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