

1988 No. 1729

HEALTH AND SAFETY

The Mines (Safety of Exit) Regulations 1988

<i>Made</i>	- - - -	<i>5th October 1988</i>
<i>Laid before Parliament</i>		<i>29th November 1988</i>
<i>Coming into force</i>		
<i>For the purposes of regulation 1(a)</i>		
<i>(apart from regulations 9 and</i>		
<i>12(1)(b))</i>		
		<i>1st April 1989</i>
<i>For all other purposes</i>		
		<i>1st April 1994</i>

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The Secretary of State in exercise of the powers conferred on him by sections 15(1), (2), (3)(a) and (b), and (5)(b) of, and paragraphs 1(1)(a) and (c) and (2), 9, 12, 15(1), 18 and 21(a) and (b) of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following regulations:—

(a) 1974 c.37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraphs 6 and 16 respectively.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mines (Safety of Exit) Regulations 1988 and shall come into force on—

- (a) 1st April 1989 in respect of all mines other than existing miscellaneous mines save that regulations 9 and 12(1)(b) shall come into force on 1st April 1994;
- (b) 1st April 1994 in respect of existing miscellaneous mines, and in respect of all mines for the purposes of regulations 9 and 12(1)(b).

(2) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“existing miscellaneous mine” means a miscellaneous mine which is in existence or under construction on 1st April 1989;

“mine” means a mine within the meaning of section 180 of the Mines and Quarries Act 1954(a);

“miscellaneous mine” means a mine other than a mine of coal, stratified ironstone, shale or fireclay;

“owner” means in relation to a mine the person for the time being entitled to work it;

“shaft” includes a staple-pit, raise, winze or any similar excavation whether sunk or in the course of being sunk and so much of any superstructure provided at the top of a shaft as forms an extension to the shaft shall be deemed to form part of the shaft which is below ground.

(3) In these Regulations, unless the context otherwise requires, any reference to—

- (a) a numbered regulation is a reference to the regulation of these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which that reference appears.

(4) Words to which meanings are assigned by the 1974 Act or these Regulations shall have the same meanings in any documents issued under these Regulations.

Application

2.—(1) These Regulations shall apply below ground to all mines.

(2) Regulations 3, 5 and 7 shall not apply in respect of persons working in a shaft in the course of being sunk or an outlet in the course of being driven or an inset or in exploratory development work from the shaft or outlet where the total number of such persons at any one time does not exceed 30.

(3) For the purpose of paragraph (2) “inset” means a heading, chamber or other space in the course of being driven or excavated from the shaft or outlet and which is accessible only from the shaft or outlet and is not being driven or excavated solely or mainly for the purpose of getting of minerals or products of minerals.

Exits from the mine

3.—(1) Subject to regulation 2(2), the owner shall ensure that—

- (a) there are at least two shafts or outlets providing at least two separate exits to the surface;
- (b) the shafts or outlets are so separated that as far as is practicable anything which happens to one of them will not affect the safety of the other or others; and
- (c) where the sinking of a shaft is commenced after these Regulations come into force, the shafts are more than 15 metres apart.

(2) The manager shall ensure that, so far as is practicable, when a person is below ground an exit from the mine is available for use and so far as is reasonably practicable, at least two separate exits from the mine are so available.

(3) The manager shall prepare a suitable scheme of the action to be taken to secure the

(a) 1954 c.70, amended by S.I. 1974/2013.

safety of persons when, due to an accident, dangerous occurrence or breakdown of apparatus or equipment, only one exit is available for use.

(4) Where, due to an accident, dangerous occurrence or breakdown of apparatus or equipment, only one exit is available for use, the manager shall—

- (a) ensure that the scheme referred to in paragraph (3) is brought into effect;
- (b) subject to paragraph (5), forthwith take steps to restrict the persons below ground to those who, so far as is practicable, will not be exposed to danger by reason that only one exit is available for use and who—
 - (i) are needed to carry out work essential for securing the safety of the mine or the welfare of animals,
 - (ii) are involved in work relating to the accident, dangerous occurrence or breakdown,
 - (iii) at the time the exit became unavailable, were already working below ground, provided they do not remain below ground after their normal period of work has ended, or
 - (iv) are needed to secure the health or safety of any person;
- (c) forthwith notify the Health and Safety Executive and the person, if any, for the time being nominated under Schedule 4 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985(a) of that fact by the quickest practicable means; and
- (d) post a notice in the covered accommodation at the mine stating that only one exit is available for use and that the manager is satisfied it is safe for persons to remain below ground and the reasons why he is so satisfied.

(5) Where, in the opinion of an inspector, the circumstances are such that it is unsafe for persons who are permitted to work below ground in accordance with paragraph (4)(b) to work in a particular place, he may issue a direction in writing requiring such persons to be withdrawn from below ground, and the manager shall comply with that direction.

(6) Where, due to maintenance work which is planned, only one exit is available for use, the manager shall ensure that the only persons below ground are those who, so far as is practicable, will not be exposed to danger by reason that only one exit is available for use and who are—

- (a) needed to carry out work essential for securing the safety of the mine or the welfare of animals;
- (b) involved in the maintenance work; or
- (c) needed to secure the health or safety of those persons.

Auxiliary apparatus and equipment

4.—(1) The owner shall ensure, so far as is reasonably practicable, that persons are not endangered when all apparatus and equipment normally used by persons to leave the mine becomes unavailable or when there is a breakdown whilst persons are being wound and shall provide suitable and effective auxiliary apparatus and equipment to enable persons to gain exit to the surface safely.

(2) The manager shall make suitable rules for the use of auxiliary apparatus and equipment which include—

- (a) arrangements for the proper maintenance, examination and testing of the auxiliary apparatus and equipment;
- (b) the appointment of sufficient competent persons to inspect and operate such apparatus and equipment; and
- (c) arrangements for the adequate and effective training of such persons in the use of such apparatus and equipment,

and shall ensure that the rules are brought to the notice of persons who may be affected by them and that a copy of the rules is posted in the covered accommodation at the mine.

(a) S.I. 1985/2023.

Access between exits

5. Subject to regulation 2(2), the manager shall ensure that from each landing at a shaft or outlet used as an exit there is a road, ladderway or stairway to a landing at another shaft or outlet which is available for use as an exit.

Construction and maintenance of roads, ladderways and stairways

6. The manager shall ensure, so far as is reasonably practicable, that—
- (a) every road which persons walk along to or from their places of work—
 - (i) is suitably constructed and maintained for that purpose,
 - (ii) is safe and convenient to walk along and shall normally be not less than 1.7 metres in height, and
 - (iii) is kept free from obstruction; and
 - (b) any ladderway or stairway is so constructed, installed and maintained that it can be used safely.

Ways from places of work

7.—(1) Subject to regulation 2(2) and paragraph (4), the manager shall ensure that every place where a person works shall have two different ways each of which is entirely separate from the other and leads to a different exit from the mine.

(2) The manager shall ensure that each way which leads to a shaft or outlet is clearly marked to indicate the shaft or outlet to which it leads.

(3) The manager shall make and operate a suitable scheme to familiarize each person with at least two ways out of the mine from the place or places where the person works.

(4) The requirement in paragraph (1), to provide two different ways each of which is entirely separate from the other and leads to a different exit from the mine, shall not apply where—

- (a) there is either—
 - (i) a heading or other place where not more than 9 persons work (other than up to 3 additional persons who are engaged temporarily in inspection, investigation or the taking of measurements or samples), or
 - (ii) a heading where not more than 18 persons work and where the horizontal width of the working face does not exceed the width of the heading measured across the direction of advance;
- (b) it is not reasonably practicable to provide two different ways, each of which is entirely separate from the other and leads to a different exit from the mine; and
- (c) the manager has made suitable arrangements to ensure, so far as is practicable, that persons can leave the place safely, and that their safety is not endangered by the lack of two different ways, each of which is entirely separate from the other and leads to a different exit from the mine.

(5) Where the manager decides in accordance with paragraph (4)(a)(ii) that more than 9 but not more than 18 persons will work at a heading which does not have two different ways each of which is entirely separate from the other and leads to a different exit from the mine, he shall—

- (a) give to the Health and Safety Executive at least 7 working days' advance notice in writing of the implementation of that decision or such shorter notice as the Health and Safety Executive may accept;
- (b) at the same time notify that decision to the person, if any, nominated under Schedule 4 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985;
- (c) make suitable rules for the safe working in and exit from the heading, which incorporate a plan, and which include arrangements for inspection, examination and supervision in the heading; and
- (d) send a copy of the rules with any notification made under paragraph (a) or (b).

Provision of barriers and enclosures

8.—(1) The manager shall make arrangements to ensure that there is a suitable barrier or enclosure to prevent any person inadvertently entering any part of the mine which is not for the time being safe to work in or pass through.

(2) The person for the time being in charge of that part of the mine shall ensure that any such barrier or enclosure is properly maintained and kept in position.

(3) No person shall move or interfere with any such barrier or enclosure without the authority of the manager.

Intake airways

9. The manager shall ensure that, apart from those persons who are going to or leaving their place of work at the beginning or end of a shift, not more than 50 persons are employed below ground in any part of the mine unless—

- (a) there are two separate intake airways into that part of the mine which are connected only in such a way that in the event of a fire, transmission of the products of combustion from one airway to the other is prevented so far as is reasonably practicable; or
- (b) there is one intake airway which is constructed of suitable fire resistant materials and is free, so far as is reasonably practicable, from the risk of fire.

Exemptions

10.—(1) Subject to paragraph (2), the Health and Safety Executive may, by a certificate in writing, exempt any mine, or part of a mine or class of mines from any requirement of 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 a certificate in writing.

(2) The Health and Safety 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 enactment 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.

Disapplication of section 157 of the Mines and Quarries Act 1954

11. Section 157 of the Mines and Quarries Act 1954 (which provides a defence in legal proceedings and prosecutions in certain circumstances) shall not apply in relation to any prosecutions or other legal proceedings based on an allegation of a contravention of a requirement imposed by or under these Regulations.

Repeals, revocations and modifications

- 12.—(1)(a) Sections 22 to 25 and 33 to 35 of the Mines and Quarries Act 1954 are repealed;
- (b) section 70 of the Mines and Quarries Act 1954 is repealed;
 - (c) the Coal and Other Mines (Height of Travelling Roads) Regulations 1956(a) are revoked;
 - (d) regulations 1 to 4 and 7 of the Mines (Emergency Egress) Regulations 1973(b) are revoked; and
 - (e) regulation 3(2) of, and Schedule 2 to, the Mines and Quarries (Metrication) Regulations 1976(c) are revoked.

(a) S.I. 1956/1940, amended by S.I. 1976/2063.

(b) S.I. 1973/194.

(c) S.I. 1976/2063.

(2) In the Mines and Quarries Act 1954, the Mines and Quarries (Tips) Act 1969(a) and the Mines Management Act 1971(b), and in regulations made under any of those Acts or in health and safety regulations any reference to any of those Acts shall be treated as including a reference to these Regulations.

(3) The provisions specified in the Schedule to these Regulations shall be modified in accordance with that Schedule.

Signed by order of the Secretary of State.

Patrick Nicholls
Parliamentary Under Secretary of State,
Department of Employment

5th October 1988

THE SCHEDULE

Regulation 12(3)

MODIFICATIONS

1. Section 48(1) of the Mines and Quarries Act 1954 (which relates to the safety of roads and working places) shall be modified as follows:-

for "section thirty-three of this Act" substitute "regulation 8 of the Mines (Safety of Exit) Regulations 1988".

2. The Coal and Other Mines (Managers and Officials) Regulations 1956(c) shall be modified as follows:-

(a) in regulation 16 (which relates to a deputy's duty to fence off dangerous places) for "section thirty-three of the Act" substitute "regulation 8 of the Mines (Safety of Exit) Regulations 1988";

(b) in regulation 20 (which relates to a deputy's duty to be acquainted with ways leading to exits) for "of egress therefrom or from any place therein" substitute "each leading to a different exit" and for "section twenty-four of the Act" substitute "regulation 7(1) of the Mines (Safety of Exit) Regulations 1988" and after "from the district" for "and from any such place" substitute "and from every place where a person works"; so that regulation 20 now reads-

"20. A deputy to whom any district is assigned (otherwise than during the temporary absence of another deputy) shall, where not less than two ways, each leading to a different exit are required under regulation 7(1) of the Mines (Safety of Exit) Regulations 1988 forthwith make himself acquainted with two such ways from the district and from every place where a person works therein, and shall thereafter travel along the whole of each of them once at least in each month during which that district is assigned to him."

3. The Mines (Emergency Egress) Regulations 1973(d) shall be modified as follows:-

(a) in regulation 5, (which relates to the use of gravity winding apparatus) in paragraph (1) for "scheme" substitute "rules"; for "these regulations" substitute "regulation 4(2) of the Mines (Safety of Exit) Regulations 1988"; for "1960 Regulations" substitute "Coal and Other Mines (Shafts, Outlets and Roads) Regulations 1960"(e). In paragraph (2) for "1960 Regulations" substitute "Coal and Other Mines (Shafts, Outlets and Roads) Regulations 1960" and for "scheme" substitute "rules"; so that regulation 5 now reads-

"Use of gravity winding apparatus

5.—(1) Any rules made under regulation 4(2) of the Mines (Safety of Exit) Regulations 1988 for a mine of coal, stratified ironstone, shale or fireclay may provide for the use of gravity operated winding apparatus notwithstanding the provisions of regulations 6, 15(3) and 51(1) of the Coal and Other Mines (Shafts,

(a) 1969 c.10.

(b) 1971 c.20.

(c) S.I. 1956/1758; the relevant amending instruments are S.I. 1961/817, 1962/594, 1963/1617, 1966/882, 1975/1102, and 1978/1648.

(d) S.I. 1973/194.

(e) S.I. 1960/69, to which there are amendments not relevant to these Regulations.

Outlets and Roads) Regulations 1960 or any provisions of any special regulations in force at the mine enabling persons to be carried without the use of keps.

(2) Regulation 7 of the Coal and Other Mines (Shafts, Outlets and Roads) Regulations 1960 shall not apply to any apparatus provided in pursuance of any such rules."

- (b) in regulation 6, for "scheme" substitute "rules" and for "these regulations" substitute "regulation 4(2) of the Mines (Safety of Exit) Regulations 1988"; so that regulation 6 now reads—

"6. Where pursuant to any rules made under regulation 4(2) of the Mines (Safety of Exit) Regulations 1988 gravity operated winding apparatus is being used at a mine other than a mine of coal, stratified ironstone, shale or fireclay regulations 10(2) and 19(1) of the Miscellaneous Mines (General) Regulations 1956 shall not apply."

4. Paragraph 14 of Part II of Schedule 1 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985(a) (which relates to the use of emergency escape apparatus) shall be modified as follows:—

for the words from "any scheme made pursuant to" to the end substitute the words "regulation 4 of the Mines (Safety of Exit) Regulations 1988 or where persons leave the mine when apparatus and equipment normally used by persons to leave the mine is unavailable".

EXPLANATORY NOTE.

(This note is not part of the Regulations)

The Regulations apply below ground to mines (regulation 2), and provide for safe ways of leaving a mine.

Regulation 3 provides for two separate exits from the mine to the surface. It imposes duties on the manager in respect of exits available for use, and requires a scheme and precautions to apply where only one exit is available due to accident, dangerous occurrence or breakdown. This regulation also requires the manager to restrict the number of persons below ground where only one exit is available due to maintenance which is planned.

Regulation 4 imposes duties on the owner of the mine when apparatus and equipment used by persons to leave the mine is unavailable or breaks down and provides for auxiliary apparatus and equipment. It requires the manager to make rules for the use of auxiliary apparatus and equipment.

Regulation 5 provides for a road, ladderway or stairway between landings at shafts or outlets used as exits. Regulation 6 imposes duties on the manager in relation to the construction and maintenance of certain roads which persons walk along and ladderways and stairways.

With the exceptions provided for by paragraph (4), regulation 7 requires the manager to ensure that workplaces have two different ways out, that the ways out are marked and that a scheme familiarizes persons with two ways out. Where more than nine but not more than eighteen persons work at a heading without two separate ways out, paragraph (5) requires the manager to give certain notices and make rules for safe working in and exit from the heading.

Regulation 8 requires the provision of barriers and enclosures to prevent persons inadvertently entering an unsafe part of the mine. It imposes duties on the manager and other persons in relation to those barriers and enclosures.

Where more than 50 employees are below ground (apart from shift changes) regulation 9 requires the manager to ensure either that there are two separate intake airways

(a) S.I. 1985/2023.

connected so as to prevent fire in one affecting the other so far as is reasonably practicable, or one fire resistant intake airway. Regulation 10 allows the Health and Safety Executive to exempt a mine, part of a mine or a class of mines from the Regulations. Regulation 11 disapplies section 157 of the Mines and Quarries Act 1954 (defence in certain legal proceedings).

Regulation 12 repeals certain provisions of the Mines and Quarries Act 1954 namely, sections 22 to 25 (shafts and outlets in coal etc. mines) and sections 33 to 35 (unfit parts of a mine, construction, maintenance, etc. of roads); section 70 (fire precautions for single intake airways) is repealed with effect from 1st April 1994. The Coal and Other Mines (Height of Travelling Roads) Regulations 1956 and parts of the Mines (Emergency Egress) Regulations 1973 are revoked. Provision is also made for references to the Mines and Quarries Act 1954, the Mines and Quarries (Tips) Act 1969 and the Mines Management Act 1971, in those Acts, in regulations made under those Acts and in health and safety regulations to include a reference to these Regulations.

The Schedule sets out provisions modified by these Regulations.

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