

EXPLANATORY MEMORANDUM TO

THE MINES REGULATIONS 2014

2014 No.3248

1. This explanatory memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1. The Mines Regulations 2014 (“the Regulations”) are intended to protect people working at mines in Great Britain by ensuring that there is a duty on the mine operator to manage and control the major hazards at mines (fire, flammable/explosive gases and dust, ground movement, inrushes of water or other materials, transport through shafts, mass transport below ground and the use of explosives). The primary purpose of the Regulations is to replace the existing law with a single set of modern regulations that retain necessary protection for mineworkers and others and clearly place the duties to ensure health and safety on the mine operator. They also remove outdated and redundant legislation, prescription and duplication.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None
4. **Legislative Context**
 - 4.1. The unique nature of underground mining and its associated hazards has meant that there was a substantial suite of mine-specific health and safety legislation introduced between 1954 and 2007. Alongside this very specific legislation, increasingly more generic health and safety legislation covering a range of topics has been introduced, eg, The Dangerous Substances and Explosive Atmospheres Regulations 2002 ([DSEAR](#)) and the Provision and Use of Work Equipment Regulations 1998 ([PUWER](#)). This legislation of general application covers matters that were already contained in mine-specific legislation, thereby creating unnecessary duplication. The Regulations remove much of the duplication while retaining controls over specific mining hazards.
 - 4.2. In relation to underground mining in Great Britain, the Regulations transpose European Directive [92/104/EEC](#) on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral extracting industries. The Transposition Note is in Appendix 3.
 - 4.3. The Regulations provide a single, set of modern regulations that is simpler and clearer for businesses to comply with. The Regulations are made under powers conferred by the [Health and Safety at Work etc. Act 1974](#).

4.4. The scrutiny history of European Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries is at Appendix 2.

5. Territorial Extent and Application

5.1. This instrument applies to Great Britain and extends to premises and activities specified in the [Health and Safety etc Act 1974 \(Application Outside Great Britain\) Order 2013](#). Northern Ireland has its own mining legislation.

6. European Convention on Human Rights

6.1. The Minister of State for Disabled People, Mark Harper MP, has made the following statement regarding Human Rights: ‘In my view the provisions of the Mines Regulations 2014 are compatible with the Convention rights’.

7. Policy background

• What is being done and why

7.1. By consolidating and modernising the law on health and safety in mines, The Regulations deliver one of the recommendations of Professor Ragnar Löfstedt’s report: [‘Reclaiming Health and Safety for All: An independent review of health and safety legislation’](#). This recommendation was made on the basis that the consolidation process should not reduce the health and safety protection afforded by the current regulations. The Government accepted this recommendation, and committed to delivering revised regulations.

7.2. The current legislation places most duties on the individual mine manager rather than the business that operates the mine and is a legacy of a nationalised coal-mining industry when the State was the employer. This is an outdated arrangement and therefore in the Regulations the main duties will be placed on the operator of the mine, ie the person or corporate body in overall day-to-day control of the mine.

7.3. In addition to the requirements covering the mining major hazards, there are also provisions to ensure suitable escape and rescue, ventilation, management of tips and the control of dust in coal mines. The Regulations will also protect members of the public as they apply to tourist mines where a specific hazard is present, eg the use of winding apparatus.

• Consolidation

7.4. The Regulations will repeal major parts of two Acts of Parliament and will revoke 17 instruments, with a further 28 lapsing either because the Regulations repeal their enabling powers or because the provision that saved them is being revoked (Appendix 1).

7.5. The Approved Codes of Practice (ACOPs) supporting the law being revoked will no longer have effect (also shown in Appendix 1). New supporting guidance providing practical advice on how to comply with the new Regulations has been developed. The ACOP ‘The use of electricity in mines’ (L128) will be withdrawn and replaced by updated guidance.

8. Consultation outcome

- 8.1. HSE carried out a public consultation exercise on the proposed Regulations from 7 April to 1 June 2014 and received 31 responses. The consultation document ([CD267](#)) and response form were available on the HSE website. Printed copies were also available on request.
- 8.2. HSE reviewed all of these comments and, where appropriate, addressed any issues raised with the individual proposals either by refining the proposed Regulations or through consideration of further guidance. Issues raised included matters for clarification and interaction with other legislation. The vast majority of these were addressed through minor changes to the draft Regulations, in the development of the supporting guidance and through post-consultation meetings.
- 8.3. The main group of respondents were mine operators (16) who were in strong support and provided positive suggestions enabling HSE to improve the draft Regulations and supporting guidance. The level of support for the proposals reflected work carried out with stakeholders in advance of the formal consultation. Respondents were appreciative of the increased flexibility, the reflection of current working practices which would support their application of the regulations and welcomed the changes where risk-based provisions had replaced prescriptive measures. An [analysis](#) of consultation responses is available on HSE's website.
- 8.4. There was disagreement to all of the proposals from the National Union of Mineworkers (NUM), the National Association of Colliery Overmen, Deputies and Shotfirers (NACODS), the Midland Institute of Mining Engineers and Thompsons Solicitors. The two trade unions said there was already a wealth of fit for purpose legislation in place to protect their members. To date, further meetings with them have not resulted in information indicating that either has altered its view. HSE continues to engage with these trade unions as we believe that the Regulations ensure the preservation of existing safety standards while allowing adaptation to reflect, for example, technological change.
- 8.5. The Union of Democratic Mineworkers (UDM) did not send a formal response to the consultation but HSE has undertaken significant engagement with them also. Their main concern was the retention of worker inspection rights. Further discussions with them have resulted in them indicating that they are content with the Regulations as supported by the new guidance.
- 8.6. The British Association of Colliery Managers (BACM), Unite and GMB raised no objections to the main proposals.
- 8.7. HSE also undertook substantial engagement with mine operators, trade unions and other stakeholders in the 18 months leading up to the formal consultation exercise. These discussions fed into the development of the proposals.

9. Guidance

- 9.1. New guidance will give practical advice on how to comply with the Regulations and will be available in one document rather than the numerous separate documents which support the current law. The guidance, developed in conjunction with stakeholders, will be available on [HSE's website](#) at the time the

Regulations are laid in Parliament, ie over three months before the Regulations come into force on 6 April 2015.

10. Impact

10.1. HSE has carried out a final stage impact assessment and estimate a saving to business of £190,000 per year. The final impact assessment is attached and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1. The Regulations apply to small and micro businesses and are not expected to impact disproportionately upon them. Currently around 80% of businesses in the industry are small or micro businesses. The hazards related to mining exist regardless of the size of the business. Placing these mines outside the scope of the new Regulations would mean they might not benefit from the more risk-based and proportionate approach in the way a mine operator delivers safe systems of work subject to the necessary standards of safety being achieved. Businesses are not expected to do anything significantly different to what they do now where they are already meeting satisfactory standards for the health and safety of their workers and, where appropriate, that of others.

11.2. Some small coal mines may also benefit as the requirement to belong to an approved mines rescue scheme, which currently attracts a membership fee of £500 per year, will be removed. These small coal mines would then have greater flexibility in the manner in which they provide suitable arrangements for escape and rescue and how they do this may result in savings through, say, pooling resources.

12. Monitoring & review

12.1. The Regulations will be reviewed in line with Government policy, ie before the fifth anniversary of the Regulations. The first report of this review will be published before 6 April 2020.

13. Contact

13.1. Stewart McEwen at the Health and Safety Executive can answer any questions regarding the instrument Tel: 0151 951 3271 email: stewart.mcewen@hse.gsi.gov.uk.

List of revocations

- The Coal and Other Mines (Fire and Rescue) Order 1956 ([S.I. 1956/1768](#))*
- The Coal and Other Mines (General Duties and Conduct) Order 1956 ([S.I. 1956/1761](#))*
- The Coal and Other Mines (Locomotives) Order 1956 ([S.I. 1956/1771](#))*
- The Coal and Other Mines (Safety-Lamps and Lighting) Order 1956 ([S.I. 1956/1765](#))*
- The Coal and Other Mines (Sanitary Conveniences) Order 1956 ([S.I. 1956/1776](#))*
- The Coal and Other Mines (Horses) Order, 1956 ([S.I. 1956/1777](#))*
- The Coal and Other Mines (Sidings) Order 1956 ([S.I. 1956/1773](#))*
- The Coal and Other Mines (Ventilation) Order 1956 ([S.I. 1956/1764](#))*
- The Coal Mines (Cardox and Hydrox) Regulations 1956 ([S.I. 1956/1942](#))*
- The Coal Mines (Precautions against Inflammable Dust) Order 1956 ([S.I. 1956/1769](#))*
- The Mines (Manner of Search for Smoking Materials) Order 1956 ([S.I. 1956/2016](#))*
- The Miscellaneous Mines Order 1956 ([S.I. 1956/1778](#))*
- The Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956 ([S.I. 1956/1943](#))*
- The Coal Mines (Clearances in Transport Roads) Regulations 1959 ([S.I. 1959/1217](#))*
- The Miscellaneous Mines (Explosives) Regulations 1959 ([S.I. 1959/2258](#))*
- The Coal and Other Mines (Shafts, Outlets and Roads) Regulations 1960 ([S.I. 1960/69](#))*
- The Coal and Other Mines (Ventilation) (Variation) Regulations 1960 ([S.I. 1960/1116](#))*
- The Coal Mines (Firedamp Drainage) Regulations 1960 ([S.I. 1960/1015](#))*
- The Coal Mines (Precautions against Inflammable Dust)(Variation) Regulations 1960 ([S.I. 1960/1738](#))*
- The Meadow Bank Mine (Explosives) Special Regulations 1963 (S.I. 1963/815)*
- The Mines (Medical Examinations) Regulations 1964 ([S.I. 1964/209](#))*
- The Coal and Other Mines (Ventilation) (Variation) Regulations 1966 ([S.I. 1966/1139](#))*
- The Coal and Other Mines (Shafts, Outlets and Roads) (Amendment) Regulations 1968 ([S.I. 1968/1037](#))*
- The Mines and Quarries (Tipping Plans) Rules 1971 ([S.I. 1971/1378](#))*
- The Mines and Quarries (Tips) Regulations 1971([S.I. 1971/1377](#))*
- The Boulby Mine (Storage Battery Locomotives) Special Regulations 1972 (S.I. 1972/472)*
- The Winsford (Formerly Meadow Bank)Mine(Explosives)(Amendment) Special Regulations 1974(S.I. 1974/2223)*
- The Coal Mines (Precautions Against Inflammable Dust)(Second Amendment) Regulations 1974 ([S.I. 1974/2124](#))*
- The Mines and Quarries Acts 1954 to 1971 (Repeals and Modifications) Regulations 1975 ([S.I. 1975/1102](#))
- The Mines and Quarries (Metrication) Regulations 1976 ([S.I. 1976/2063](#))
- The Coal Mines (Precautions against Inflammable Dust) Amendment Regulations 1977 ([S.I. 1977/913](#))
- The Coal and Other Mines (Metrication) Regulations 1978 ([S.I. 1978/1648](#))
- The Daw Mill Mine (Refuge Holes) Regulations 1978 (S.I. 1978/1815)
- The Mines (Precautions against Inrushes) Regulations 1979 ([S.I. 1979/318](#))
- The Coal and Other Mines (Fire and Rescue) (Amendment) Regulations 1980 ([S.I. 1980/942](#))

The Miscellaneous Mines (Metrication) Regulations 1983 ([S.I. 1983/994](#))
The Mines (Safety of Exit) Regulations 1988 ([S.I. 1988/1729](#))
The Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993 ([S.I. 1993/208](#))
The Coal Mines (Owner's Operating Rules) Regulations 1993 ([S.I. 1993/2331](#))
The Management and Administration of Safety and Health at Mines Regulations 1993 ([S.I. 1993/1897](#))
The Mines (Shafts and Winding) Regulations 1993 ([S.I. 1993/302](#))
The Escape and Rescue from Mines Regulations 1995 ([S.I. 1995/2870](#))
The Mines Miscellaneous Health and Safety Provisions Regulations 1995 ([S.I. 1995/2005](#))
The Mines (Control of Ground Movement) Regulations 1999 ([S.I. 1999/2463](#))
The Coal Mines (Control of Inhalable Dust) Regulations 2007 ([S.I. 2007/1894](#))
* Subordinate legislation ceases to be in force

List of repeals

Mines and Quarries Act 1954 ([S.I. 1954/c70](#))
Sections 19, 28, 30, 36, 37, 39-46, 55, 56, 58, 59, 61, 62, 64-67, 69, 73, 74, 79, 83, 84, 86, 87, 94, 95, 97, 123, 137, 141(5), 143, 150, 170, 171, 174 and Schedule 3
Mines and Quarries (Tips) Act 1969 ([S.I. 1969/c10](#))
Sections 1-7, 10 and Schedule 1

List of Approved Codes of Practice (ACOPs)

[COP 28](#) – Safety of exit from mines underground workings. Mines (Safety of Exit) Regulations 1988.
[L42](#) - Shafts and Winding in Mines. Mines (Shafts and Winding) Regulations 1993
[L44](#) - The management and administration of safety and health at mines. Management and Administration of Safety and Health at mines Regulations 1993
[L45](#) – Explosives at coal and other safety-lamp mines. Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993
[L46](#) – Prevention of inrushes at mines. Mines (Precautions Against Inrushes) Regulations 1979
[L71](#) – Escape and rescue from mines. Escape and Rescue from Mines Regulations 1995.
[L119](#) – The control of ground movement in mines. The Mines (Control of Ground Movement) Regulations 1999
[L145](#) – Control of inhalable dust in mines. The Coal Mines (Control of Inhalable Dust) Regulations 2007
[L128](#) – The use of electricity in mines. Electricity at Work Regulations 1989

Scrutiny History

- 1 Directive 92/104/EEC was the subject of Commission proposals 4696/92, COM(92)14: Proposal for a Council Directive concerning minimum requirements for improving the safety and health protection of workers in the extractive industries for the exploration and exploitation of minerals in mines and quarries. COM(92)14 was the subject of a Government explanatory memorandum submitted to parliament dated 27 April 1992.
- 2 Lords EU Scrutiny Committee: the proposal was cleared at the Chairman's siff on 12 May 1992. Commons EU Scrutiny Committee: The government has no available records to outline the scrutiny history of the document.
- 3 Directive 92/104/EEC was the subject of a further Commission proposal 6831/92, COM(92)251 amending its earlier proposal which took into account the opinion of the European Parliament. Both 4696/92 and 6831/92 were the subject of a Commons Scrutiny Debate (European Standing Committee B) on 8th July 1992.

