



Dean Forest (Mines) Act 1838

1838 CHAPTER 43 1 and 2 Vict

An Act for regulating the opening and working of Mines and Quarries in the Forest of Dean and Hundred of Saint Briavels in the County of Gloucester. [27th July 1838]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Functions of Gaveller now exercisable by Forestry Commissioners: s. 13 of this Act and S.R. & O. 1924/386 (Rev. V, p. 443: 1924, p. 454), art. 5
- C3 Functions of Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings under this Act now exercisable by Forestry Commissioners: S.R. & O. 1924/386 (Rev. V, p. 443: 1924, p. 454), art. 2
- C4 Preamble repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

[1]—^{F1}
XIII.

Textual Amendments

- F1 [Ss. 1–13, 18, 24–26, 28, 30–44](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

XIV Who shall be deemed Free Miners.

All male persons born or hereafter to be born and abiding within the said Hundred of *Saint Briavels*, of the age of twenty-one years and upwards, who shall have worked a year and a day in a coal or iron mine within the said Hundred of *Saint Briavels*, shall be deemed and taken to be Free Miners for the purposes of this Act.

Modifications etc. (not altering text)

- C5 “The said Hundred of Saint Briavels” means the Hundred of St. Briavels in county of Gloucester

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838. (See end of Document for details)

XV Quarrymen to be deemed Free Miners for certain Purposes.

All male persons born or hereafter to be born and abiding within the said Hundred, of the age of twenty-one years and upwards, who shall have worked a year and a day in a stone quarry within the said Forest, shall for the purposes of this Act, so far as relates to having gales or leases of stone quarries within the open lands of the said Forest, but not otherwise, be taken to be Free Miners.

XVI Register of Free Miners to be made.

The Gaveller or Deputy Gaveller for the time being shall immediately after the passing of this Act proceed to form a Register of the persons being Free Miners; and all persons claiming to be Free Miners shall send their names and places of residence, in writing, to the Gaveller or Deputy Gaveller for the time being, to be registered in a book, which such Gaveller or his Deputy is hereby required to keep, for the purpose of entering the same respectively therein; . . . ^{F2}

Textual Amendments
F2 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

XVII †Gaveller may refuse to register, unless Evidence is produced, subject to Appeal to the Commissioners.

It shall be lawful for the Gaveller or Deputy Gaveller for the time being to refuse to register the names of any persons claiming to be Free Miners, without such persons shall produce evidence satisfactory to the said Gaveller or his Deputy of their being Free Miners; and if any person claiming to be a Free Miner shall be dissatisfied with the decision of the Gaveller or Deputy Gaveller, it shall be lawful for him to appeal . . . ^{F3}

Textual Amendments
F3 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

Modifications etc. (not altering text)
C6 Unreliable marginal note

XVIII ^{F4}

Textual Amendments
F4 [Ss. 1–13, 18, 24–26, 28, 30–44](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

XIX †After the Commissioners have ceased to act, Appeal may be made to the Sessions or the Court of Verderers.

. . . ^{F5} such appeal may be made to [^{F6}the Crown Court], or to any Court of Verderers or Attachments to be held for the said Forest, which [^{F6}Court] and Court of Verderers or Attachments are respectively hereby empowered to hear and finally determine the

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matter of the said appeal, so as such appeal be made within four calendar months from the decision of the said Gaveller or Deputy Gaveller, and so as notice in writing of such appeal be served upon or left at the last known or usual place of residence of the Deputy Gaveller for the time being at least fourteen days before such appeal shall be heard; and the costs of all parties regarding such appeal shall be paid as [^{F6}the Crown Court], or the Verderers, or any three of them, assembled in the Court of Attachments for the said Forest, shall direct.

Textual Amendments

- F5** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)
F6 Words substituted by virtue of [Courts Act 1971 \(c. 23\), Sch. 1 para. 1, Sch. 8 Pt. 1 para. 2](#)

Modifications etc. (not altering text)

- C7** Unreliable marginal note

XX Free Miners to be registered.

The Gaveller or Deputy Gaveller for the time being shall register the names and places of residence of persons declared to be Free Miners, pursuant to any Order so to be made . . . ^{F7} by [^{F8}the Crown Court], or by the said Verderers.

Textual Amendments

- F7** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)
F8 Words substituted by virtue of [Courts Act 1971 \(c. 23\), Sch. 1 para. 1, Sch. 8 Pt. 1 para. 2](#)

XXI No Person a Free Miner who is not registered .

No person shall be deemed a Free Miner whose name is not registered as such as aforesaid.

XXII Extract from the Register to be Evidence.

An extract, under the hand of the Gaveller or Deputy Gaveller for the time being, from the Registry kept by him of the names of the Free Miners, . . . ^{F9}, shall, if tendered, be admitted in evidence in any action, suit, or other proceeding.

Textual Amendments

- F9** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)

XXIII Gales to be granted to Free Miners.

Such Free Miners, duly registered as aforesaid, shall have the exclusive right of having gales or works granted to them by Her Majesty's Officer herein called Gaveller, or the Deputy Gaveller, to open mines within the said Hundred, and to have gales or leases of quarries within the said Forest as hereinafter mentioned; and it shall be lawful for such Free Miners to sell, transfer, assign, or dispose of such gales and works, and all other the gales and works to which they are now entitled, and all quarries, to be defined as

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after mentioned, either by Deed or Will, to each other, or to any other person or persons whomsoever: Provided always, that no person registered as a Free Miner by reason of his having worked a year and a day in a quarry shall have a right to have any gale made to him of any mine, but that nothing herein contained shall prevent such Free Miners as shall be registered by reason of having worked a year and a day in a mine from having leases of quarries granted to them under the authority herein-after contained.

XXIV F10

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XXVI.

Textual Amendments

F10 Ss. 1–13, 18, 24–26, 28, 30–44 repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

XXVII Commissioners to set out the Metes and Bounds of each Gale or Work.

...^{F11} that the persons who may be entitled to any quarries to be defined, specified, and set out in the Award of the said Commissioners shall be entitled to hold and enjoy the said quarries (subject to the Rules and Regulations for working the same to be contained in any Award of the said Commissioners) ...^{F11} and ...^{F11}, the yearly rent ...^{F11}, for the said quarries ...^{F11}, shall be ascertained and fixed by the Gaveller or Deputy Gaveller for the time being for the term of twenty-one years next ensuing the cesser and determination of the former yearly rent, and so on for any succeeding term of twenty-one years; but if any persons entitled to any such quarries as aforesaid shall not, within the space of three calendar months after the cesser and determination of the former yearly rent, enter into an Agreement in writing with the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings determining the yearly rent to be paid and payable ...^{F11} for the further term of twenty-one years, or if any dispute shall arise between the Gaveller or Deputy Gaveller and any person entitled to any such quarry as aforesaid, respecting the amount of the yearly rent to be paid ...^{F11} in respect of any such quarry as aforesaid, then it shall be referred to Arbitrators to ascertain and determine the yearly rent to be paid ...^{F11} in respect of any such quarry, in such manner in all respects as is herein-after provided for the ascertaining and determining the amount of rent, royalty, or tonnage duty to be paid ...^{F11} in respect of any gale, pit, level, or work, at the end of twenty-one years, as herein-after mentioned, so as in the ascertaining and determining such rent the particular circumstances attending the quarry, and its extent and probable cost of working, shall be taken into consideration.

Textual Amendments

F11 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

Modifications etc. (not altering text)

C8 “The Award of the said Commissioners” means the award made by the Dean Forest Mining Commissioners appointed to determine those entitled to work coal and iron mines within the Hundred of Saint Briavels or stone quarries within the Forest of Dean and the extent of their entitlement and otherwise to give effect to this Act

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XXVIII F12

Textual Amendments

F12 Ss. 1–13, 18, 24–26, 28, 30–44 repealed by Statute Law (Repeals) Act 1969 (c. 52), **Sch. Pt. VII**

XXIX Commissioners to make general Rules, specifying the Mode in which Gales, &c. shall be worked; and, on Breach of such Rules, Gales, &c. to be forfeited, as in case of a Lease for Condition taken.

The Commissioners hereby appointed shall in and by their said Award specify such general Rules and Regulations as to them shall seem equitable for the mode in which all the said gales, pits, levels, works, and quarries, as well opened or to be opened, shall be worked, and shall also specify what buildings may remain or be erected on any of the open and uninclosed lands of the said Hundred, for the purposes of working such gale, pit, level, or work; and shall also, as far as the same can be ascertained, specify the mode and extent to which all future gales, pits, levels, or works shall be granted by the Gaveller or Deputy Gaveller for the time being, having regard to the quantity of coal, iron, or other mineral comprised in and which may be got by means of such gales, pits, levels, or works respectively, and the terms and regulations under which the same shall be held and worked; and that after such Award all and every the gales, pits, levels, and works in the said Hundred, and all the quarries in the said Forest, shall be opened and worked according to the true intent of such Rules and Regulations; and in case any person or persons entitled to or in the possession of any gale, pit, level, work, or quarry within the said Hundred, now granted or hereafter to be granted, awarded, or leased, shall wilfully proceed in opening or working any such gale, pit, level, work, or quarry, contrary to the said Rules and Regulations, and the directions to be contained in any award of the said Commissioners hereby appointed, after seven Days notice in writing from the Gaveller or Deputy Gaveller to stop and discontinue such opening and working, left at or upon the said, gale, pit, level, work, or quarry, or at the last known or usual place of abode of such person or persons as aforesaid, then the said gales, pits, levels, works, or quarries shall be liable to be forfeited as and for a breach of condition, and the same shall always after the said Award be considered as held on condition of performing and abiding by the said Rules and Regulations in all respects; and the person or persons in possession of any such gales, pits, levels, works, or quarries may be evicted therefrom by Her Majesty, Her Heirs or Successors, as might be done on the forfeiture of a lease for breach of condition; and all such gales, pits, levels, works, or quarries so forfeited shall be subject to be again galed or leased as other the mines, minerals, or quarries in the said Forest and Hundred; and, in addition to such right or power of eviction, the compliance with such Rules, Orders, and Regulations may be enforced by and on the behalf of Her Majesty, Her Heirs or Successors, or by any other person or persons, by injunction of [^{F13}the High Court], or otherwise in such manner as the said Court shall on application think fit.

Textual Amendments

F13 Words substituted by virtue of Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), **s. 224(1)**

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Modifications etc. (not altering text)

C9 “The Commissioners hereby appointed” means the Dean Forest Mining Commissioners

XXX F14

XLIV.

Textual Amendments

F14 Ss. 1–13, 18, 24–26, 28, 30–44 repealed by Statute Law (Repeals) Act 1969 (c. 52), Sch. Pt. VII

XLV Commissioners to make Rules and Orders for keeping Accounts of the Produce.

The said Commissioners hereby appointed shall by their said Award lay down such Rules, Orders, and Regulations, and give such directions as to the mode of keeping accounts of the produce of the said gales, pits, levels, works, or quarries respectively, or otherwise for the purpose of enabling the said Gaveller of Deputy Gaveller for the time being, or the Commissioners of Her Majesty’s Woods, Forests, Land Revenues, Works, and Buildings for the time being, from time to time to ascertain the amount of rent, royalty, tonnage duty, or other payments to be paid to Her Majesty, Her Heirs and Successors, in respect thereof, as to the said Commissioners hereby appointed shall appear fit and proper.

Modifications etc. (not altering text)

C10 “The said Commissioners hereby appointed” means the Dean Forest Mining Commissioners

XLVI The Royalty to cease at the End of every Twenty-one Years, and new Royalty to be thereupon payable to Her Majesty.

As regards existing gales, pits, levels, or works, the galeage rent, royalty, or tonnage duty payable to Her Majesty, Her Heirs and Successors, shall at the end of twenty-one years from the making of the said Award, and so on thereafter at the end of every subsequent twenty-one years, cease if the Gaveller or Deputy Gaveller, or the person or persons entitled to such gale, pit, level, or work, shall so elect; and as regards gales, pits, levels, or works hereafter to be granted, the galeage rent, royalty, or tonnage duty payable to Her Majesty, Her Heirs or Successors, under or by virtue or in respect of any gale hereafter to be granted, shall at the end of twenty-one years, and so on thereafter at the end of every subsequent twenty-one years from the granting thereof, cease if the said Gaveller or Deputy Gaveller, or the person or persons entitled to the said gale, pit, level, or work, shall so elect; and upon any such cesser the Gaveller or Deputy Gaveller for the time being shall fix the amount of the new galeage rent, royalty, or tonnage duty to be paid for the twenty-one years then next ensuing the cesser and determination of the former galeage rent, royalty, or tonnage duty in lieu of the right of Her Majesty, Her Heirs and Successors, to put in a fifth man to work the said gales, pits, levels, or works respectively and share the profit thereof, (such right being the basis and maximum of the calculation to be made for the ascertaining from time to time the new galeage rent, royalty, or tonnage duty payable and to be paid to Her Majesty, Her Heirs and Successors, as aforesaid,) and so as in the fixing from time to time the

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said new galeage rent, royalty, or tonnage duty, and also in fixing the galeage rent, royalty, or tonnage duty on the first grant of any gale hereafter to be granted under the provisions of this Act, the particular circumstances attending the gale, pit, level, or work, and its extent and probable cost of working, and other circumstances usual in the estimation of mining rents or royalty, shall be taken into consideration by the Gaveller or Deputy Gaveller for the time being.

Modifications etc. (not altering text)

C11 S. 46 applied with modification by Dean Forest (Mines) Act 1904 (c. clvi), s. 4

XLVII In case of Dispute the Amount of new Royalty to be referred to Arbitration.

Provided always, that if any person or persons entitled to any gale, pit, level, or work shall not within the space of three calendar months after the cesser and determination of the galeage rent, royalty, or tonnage duty enter into an Agreement in writing with the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, determining the new galeage rent, royalty, or tonnage duty, or if any dispute shall arise between the Gaveller or Deputy Gaveller for the time being and any such person or persons entitled to any gale, pit, level, work, or quarry, respecting the amount or nature of such new galeage rent, royalty, or tonnage duty to be so fixed by the said Gaveller or Deputy Gaveller for the time being as aforesaid, the matter in dispute shall be referred to the decision of an arbitrator to be appointed by the Gaveller or Deputy Gaveller for the time being and the person or persons so disputing as aforesaid, by some Writing under their respective hands; and if the said parties shall not be able to agree respecting the appointment of such arbitrator, then application, after fourteen days notice given to the party disputing, shall be made on the behalf of the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings to [^{F15}the High Court] to appoint a fit person to assign and determine the amount of the new galeage rent, royalty or tonnage duty, and thereupon it shall be referred to such arbitrator, who shall determine the same; and the decision of such arbitrator, whether named by the said parties or by [^{F15}the High Court] , in Writing under his hand, shall be final and binding upon all parties; and the amount of new galeage rent, royalty, or tonnage duty fixed by such arbitrator shall be the amount to be payable by the owner of such gale, pit, level, or work, his executors, administrators, and assigns, to Her Majesty, Her Heirs and Successors, subject to such determination thereof by election at the end of twenty-one years as aforesaid.

Textual Amendments

F15 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation \) Act 1925 \(c. 49\)](#), s. 224(1)

Modifications etc. (not altering text)

C12 S. 47 applied with modification by Dean Forest (Mines) Act 1904 (c. clvi), s. 4

XLVIII Arbitrator may hear Evidence, and his Decision to be final.

It shall be lawful for any such arbitrator so to be appointed as aforesaid, by summons under his hand, to require the attendance of all such persons as he may think fit to call before him upon any question or matter connected with or relating to any

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dispute or difference which may be referred to him, and also to administer oaths and examine all such persons upon oath; or, in lieu of requiring such oath as aforesaid, the said arbitrator may, if he thinks fit, require any such person to take and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined; and the Award of such arbitrator as aforesaid shall be enforced by an Order for that purpose made by [^{F16}the High Court] , and in all respects as if the same had been made a Rule of Court as by the Statute is provided, or by the injunction of [^{F16}the High Court].

Textual Amendments
F16 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation \) Act 1925 \(c. 49\), s. 224\(1\)](#)

XLIX ^{F17}

Textual Amendments
F17 [S. 49](#) repealed and superseded by [Dean Forest \(Mines\) Act 1871 \(c. 85\), s. 37](#)

L ^{F18}

Textual Amendments
F18 [Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)

LI ^{F19}

Textual Amendments
F19 [Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)

LII Power for the Recovery of Royalty.

All and every the powers of taking suing for, or recovering of the said share, rents, and payments now in force by virtue of any statute, custom, grant, or otherwise shall continue to be in force; and the said powers, so far as the same may be applicable, shall apply to any galeage rent, royalty, tonnage duty, or payments hereafter to be ascertained, fixed, and determined either by the said Award as aforesaid or by any other means howsoever: Provided always, that in case the Commissioners for the time being of Her Majesty’s Woods, Forests, Land Revenues, Works, and Buildings shall at any time after the passing of this Act think fit to agree with the person or persons entitled to any gale, pit, level, or work for a fixed or certain annual rent or rents to be paid to Her Majesty, Her Heirs and Successors, in lieu of galeage, royalty, or tonnage

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duty for any term not exceeding twenty-one years, then and in every such case it shall be lawful for the said Commissioners and they are hereby authorized and empowered so to do; and in every such case such fixed rent or rents shall be recoverable by the same means as the galeage, royalty, tonnage duty, or other payments (in lieu of which such fixed rent or rents shall be agreed upon) is hereby authorized to be recovered.

LIII †Gaveller and others on behalf of Her Majesty may enter and survey Works.

It shall be lawful . . . ^{F20} for the said Gaveller . . . ^{F20} their or any of their agents, servants, or workmen, at all seasonable times, to enter into and upon any gale, pit, level, work, or quarry now existing, or which may hereafter be opened, made, or worked within the said Hundred, and to inspect the state and workings of every part thereof, and to make a plan thereof; and the owner or occupier of every such gale, pit, level, or work shall furnish . . . ^{F20}, the Gaveller, . . . ^{F20}, with all proper and requisite facilities and information to enable them respectively to perfect such surveys and plans.

Textual Amendments

F20 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

Modifications etc. (not altering text)

C13 Unreliable marginal note

LIV Copy of General Rules to be hung up in the Speech House.

The said Commissioners for the time being of Her Majesty’s Woods, Forests, Land Revenues, Works, and Buildings shall cause a copy of all the Rules and Regulations for the opening and working the gales, pits, levels, quarries, or works within the said Hundred to be from time to time made by the said Commissioners hereby appointed to be written or printed on vellum or parchment, and to be hung in the Speech House or some other convenient place within the said forest, there to remain for the perusal and inspection at seasonable times of all parties interested therein.

Modifications etc. (not altering text)

C14 “The said Commissioners hereby appointed” means the Dean Forest Mining Commissioners

LV ^{F21}

Textual Amendments

F21 [Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

LVI Rules to be observed in granting Gales hereafter.

In every grant of a gale made after the passing of this Act the metes, bounds, limits, and extent of such gale, and the galeage rent, royalty, or tonnage duty to be paid to Her Majesty, Her Heirs and Successors, for the same, shall be specified in the grant

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thereof; and all gales hereafter to be granted shall be of such extent as the Gaveller or Deputy Gaveller for the time being, . . . ^{F22}, shall think fit, having reference to the extent of the works necessary for obtaining access to the coal or mine, and under any special Rules and Regulations for the working thereof which the said Gaveller or Deputy Gaveller, . . . ^{F23}, shall think necessary, so as such special Rules and Regulations are not inconsistent with the General Rules and Regulations to be made by the said Commissioners hereby appointed; and all such gales shall, on the granting thereof, be worked and used under and by virtue of this Act, and under any such special Rules and Regulations, in all respects as if the same had been set forth in the Award of the said Commissioners: . . . ^{F22}: Provided nevertheless, that no gale shall hereafter be granted until fourteen days notice at the least of the application for the same, specifying the situation and particulars thereof, shall have been published by the said Gaveller or Deputy Gaveller for the time being in some one or more newspaper or newspapers published and circulated in the said County of *Gloucester*; and in which notice the day and hour on which and the place at which it is intended to grant the said gale shall be specified: Provided always, that if any Free Miner claiming to be entitled to a gale to be made to him after the passing of this Act shall not agree with the Gaveller or Deputy Gaveller for the time being as to the amount of the galeage rent, royalty, or tonnage duty to be paid for the same, and to be specified in the grant thereof, then it shall be referred to an arbitrator to determine the amount of such galeage rent, royalty, or tonnage duty in like manner in all respects as is herein-before provided on the cesser of any galeage rent, royalty, or tonnage duty as aforesaid, who shall in manner aforesaid determine the galeage rent, royalty, or tonnage duty which ought to be paid.

Textual Amendments

- F22** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)
F23 Words repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), [Sch. 1 Pt. XVII](#)

LVII †Grants of Gales to be entered in Gaveller's Books, and enrolled in the Office of Land Revenue Records and Enrolments.

On the granting any gale the grant thereof and all the terms and conditions thereof, and the payments to be made in respect thereof, shall, within fourteen days from the granting thereof, be entered in the Books of the Gaveller or Deputy Gaveller of the said Forest, who shall thereupon grant to the Free Miner a copy of such entry certified under his hand, for which a fee of [^{F24}25p] shall be paid; and no grant of any gale hereafter shall be valid and effectual unless and until the same be so entered as aforesaid; . . . ^{F25}.

Textual Amendments

- F24** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)
F25 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

Modifications etc. (not altering text)

- C15** Unreliable marginal note

LVIII Assignments of Gales to be entered in Gaveller's Books.

A minute or docquet of all transfers to be made after the passing of this Act of all gales within the said Hundred, including all such as are now existing, or hereafter to

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be ascertained in the said Award, or hereafter to be granted, and of all transfers of leases of quarries hereafter to be granted, shall be entered in the Books of the Gaveller or Deputy Gaveller for the time being within three calendar months after the making thereof respectively, who shall thereupon indorse and sign a memorandum of such entry, and the date thereof, on such transfer, or, in the case of an assignment of a gale granted after the passing of this Act, on the original certificate of the grant thereof; and a fee of [^{F26}12½p] shall be paid for every such entry, or in default thereof such transfers shall be void.

Textual Amendments

F26 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

LIX Commissioners of Woods may authorize nunc pro tunc Entries of Assignments.

Provided always that in all cases where the entry of any transfer shall be omitted or delayed beyond the period provided for the entry thereof it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or any two of them, for any reasonable cause to them shown for the omission or delay, to permit the making of any such entry *nunc pro tunc*, and the same, when made under such authority, shall be valid as if made within the aforesaid period limited.

LX Gaveller to grant Gales in order of Application.

The Gaveller or Deputy Gaveller for the time being shall grant gales to Free Miners in the order of their applications in writing to be made from and after the passing of this Act; and the entry of such applications in the Books of the Gaveller or Deputy Gaveller shall be evidence of the priority of such applications respectively; and the said Gaveller or Deputy Gaveller is hereby directed to make entries of all such applications as aforesaid, and in the order in which the same are made; and the application for such gales shall be made by the filling up a printed form of application to be provided by the said Gaveller or Deputy Gaveller; . . . ^{F27}; and for the purposes of this Act the day shall be taken to begin at ten of the clock in the forenoon and end at five of the clock in the afternoon.

Textual Amendments

F27 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. VII](#)

LXI No Free Miner to be entitled to have more than Three Gales granted at a Time.

Provided always that no Free Miner except under the Award of the said Commissioners hereby appointed, shall hereafter be entitled to have more than three gales granted to him at any one time, and notwithstanding he may have applied in Writing for more than Three Gales; nor shall any Free Miner have any other gale granted to him by the said Gaveller or Deputy Gaveller until one or more of the said three gales shall be exhausted, and notwithstanding the said gale or gales may have been disposed of to any other person or persons whomsoever.

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Changes to legislation: There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838. (See end of Document for details)

Modifications etc. (not altering text)

- C16 S. 61 excluded by Dean Forest (Mines) Act 1904 (c. clvi), s. 7(8)
- C17 “The said Commissioners hereby appointed” means the Dean Forest Mining Commissioners

LXII Gaveller not to grant Gales which may interfere with existing Gales.

The said Gaveller or Deputy Gaveller for the time being shall not be compellable to grant any gale which he may conceive will interfere with any existing gale, pit, level, or work, or which either from its proposed situation or extent shall not in the opinion of the said Gaveller or Deputy Gaveller be considered as adapted for obtaining the coal or other mineral in the best and most economical manner.

LXIII F28

Textual Amendments

- F28 Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91 repealed by Statute Law (Repeals) Act 1969 (c. 52), Sch. Pt. VII

LXIV Gales not to be granted in inclosed Lands of Her Majesty.

No gale shall be granted to any persons whomsoever in any lands belonging to Her Majesty, Her Heirs and Successors, which have been or shall be inclosed for the growth and preservation of timber under and by virtue of any Act or Acts of Parliament so long as the said lands shall continue to be so inclosed: Provided always, that this shall not extend to prevent any person from working any gales to which he may be entitled under such inclosed lands, so as no Damage shall be thereby done to such inclosed lands, or the fences thereof, or to the trees within such inclosed lands.

LXV Commissioners of Woods may grant Licences for Air Shafts in Inclosures.

It shall be lawful for the Commissioners for the time being of Her Majesty’s Woods, Forests, Land Revenues, Works, and Buildings, if they in their discretion shall see fit, to grant licences to such person or persons as they may think proper for sinking air shafts in any inclosures belonging to Her Majesty, Her Heirs and Successors, or for the forming any railroad or tramroad along or across any of such inclosures, but under such conditions and restrictions and subject to such rents or payments, and under such Regulations, as the said Commissioners last mentioned shall think fit: Provided always, that such grants or licences shall be entered in the Books of the said Gaveller or Deputy Gaveller within three months from the date thereof respectively, . . . F29: Provided always, that the power hereby given to grant licences for forming any railroad or tramroad along or across any of the inclosures of Her Majesty, shall not extend to abridge or prejudice any rights or privileges now by law vested in any company or companies heretofore established and empowered by Act of Parliament to make and maintain railways within the said Forest.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838. (See end of Document for details)

Textual Amendments

F29 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

LXVI **F30**

Textual Amendments

F30 [Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. VII](#)

LXVII Moieties of Gale Rent to be paid to Owners of inclosed Lands.

As regards coal, iron, or other mine or minerals to be raised or gotten by means of any gale, pit, level, or work within inclosed lands of the said Hundred not within the said Forest, the Gaveller or Deputy Gaveller for the time being shall pay over one moiety of the net galeage rent, royalty, or tonnage duty, after deducting all expences of collection and recovery of the said rent or duty, to the owner of the inclosed lands within and from under which the coal or iron mine or other mineral shall be found and taken; and in case such coal or iron mine or other mineral shall be found and taken from within the inclosed lands of more than one owner, the Gaveller or Deputy Gaveller for the time being shall and he is hereby authorized to apportion the said moiety of the said galeage rent, royalty, or tonnage duty between and among the said owners: Provided nevertheless, that if any dispute shall arise with regard to such payments to be made to such owner as aforesaid, or to any apportionment thereof, such dispute shall be referred to an arbitrator to be appointed by the Gaveller or Deputy Gaveller for the time being and the person or persons so disputing as aforesaid; and thereupon it shall be referred to such arbitrator, who shall determine the matter in dispute, and whose decision in writing under his hand shall be binding upon all parties.

LXVIII Miners to pay Compensation to Owners of inclosed Lands for Surface Damage.

Every Free Miner or other person who is or may be entitled to any gale, pit, level, or work within any inclosed lands of the said Hundred shall and he is hereby required to pay to the owner of any such inclosed lands a full and fair compensation in money for any surface damage which may be done or occasioned to any of such inclosed lands by reason or means of the opening or working any gale, pit, level, or work therein or thereon, which compensation shall be ascertained and determined . . . ^{F31} by the Gaveller or Deputy Gaveller for the time being; and if such compensation shall not be paid within ten days . . . ^{F31} after the making of any such Award by the Gaveller or Deputy Gaveller, and a copy thereof served upon or left at the last known or usual place of abode of the party required to pay the same, then the amount of such compensation may be recovered in an action of debt by the person or persons entitled to receive the same in [^{F32}the High Court] , together with full costs; and it shall not be lawful for any such person who shall have so neglected or refused to pay such compensation, or for any other person or persons whomsoever claiming by, from, through, or under him, to open or work or to proceed in the opening or working of any gale, pit, level, or work in respect of which compensation shall have been so awarded for surface damage until the same shall have been fully paid as aforesaid: Provided nevertheless, that if the

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Changes to legislation: There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838. (See end of Document for details)

owner or owners of any of the inclosed lands within the said Hundred shall at any time within six calendar months from the passing of this Act give notice in writing to the said Commissioners hereby appointed of his or their desire that the provisions of this Act should not extend to such lands, then and thereupon this Act shall be taken not to extend to such lands, so as the same be specified in such notice; but all and every rights, customs, and privileges existing at the passing of this Act, so far as regards such lands, or the mines and minerals thereunder, and the right to the same, shall continue in force in all respects as if this Act had not been passed; . . . ^{F31}

Textual Amendments
F31 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), **Sch. Pt. VII**
F32 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation \) Act 1925 \(c. 49\)](#), **s. 224(1)**

LXIX No Erections on inclosed Lands without Consent.

No steam engine or dwelling house (except with the previous consent and licence in writing of the owner of the soil) shall be erected within any of the inclosed lands of the said Hundred; and that the said Commissioners shall by their said Award specify any particular Rules and Regulations which they may think expedient to be made for the defining the mode in which the gales, pits, levels, and works, as well opened as to be opened, within any inclosed lands within the said Hundred shall be worked, and also as regards the nature of the buildings, roads, or works which may be erected or made upon or over such inclosed lands as aforesaid.

LXX ^{F33}

LXXXII.

Textual Amendments
F33 [Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91](#) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), **Sch. Pt. VII**

LXXXI No Building to continue when unnecessary to remain.

. . . ^{F34} as regards any buildings or works which may be now erected, or which may be hereafter erected within the said Hundred, for the purpose of the said mines or quarries, the same shall only be continued so long as the same shall be necessary for the purpose of working the said mines or quarries; but that the owner of such buildings or works shall be entitled to the materials thereof, and the said Gaveller or Deputy Gaveller (or the Verderers, as regards any buildings or works within the said Forest) may order the same to be removed and taken away.

Textual Amendments
F34 Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), **Sch. Pt. VII**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838. (See end of Document for details)

LXXXIV..... F35

LXXXIX.

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Textual Amendments

F35 Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91 repealed by Statute Law (Repeals) Act 1969 (c. 52), **Sch. Pt. VII**

XC Public Act.

This Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all judges, justices, and others.

XCI F36

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Textual Amendments

F36 Ss. 50, 51, 55, 63, 66, 70–82, 84–89, 91 repealed by Statute Law (Repeals) Act 1969 (c. 52), **Sch. Pt. VII**

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Dean Forest (Mines) Act 1838.