

1995 No. 379

HEALTH AND SAFETY

**Mines Miscellaneous Health and Safety Provisions Regulations
(Northern Ireland) 1995.**

Made 5th October 1995

Coming into operation 31st December 1995

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Application.
4. Health and safety document.
5. Co-ordination.
6. Additional health and safety requirements.
7. Health surveillance.
8. Hydraulic fluids.
9. Disapplication of section 135 of the 1969 Act.
10. Revocations.

Schedule — Additional health and safety requirements.

The Department of Economic Development, being the Department concerned(a), in exercise of the powers conferred on it by Articles 17(1), (2), (3) and (4) and 55(2) of, and paragraphs 1(1) and (2), 7, 8, 10, 11, 13, 15, 17(a) and 20(b) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(b) 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:

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

(b) S.I. 1978/1039 (N.I. 9)

Citation and commencement

1. These Regulations may be cited as the Mines Miscellaneous Health and Safety Provisions Regulations (Northern Ireland) 1995 and shall come into operation on 31st December 1995.

Interpretation

2. In these Regulations—

“the 1969 Act” means the Mines Act (Northern Ireland) 1969(a);

“approved” means approved for the time being in writing by the Department;

“the Department” means the Department of Economic Development;

“employer” includes the owner if he employs persons at work at the mine;

“gas outburst” means a sudden release of gas with or without the projection of minerals or rocks;

“the health and safety document” shall be construed in accordance with regulation 4;

“hydraulic fluid” means a fluid used for the transmission of hydrostatic or hydrokinetic mechanical energy;

“manager” in relation to a mine means the person who is appointed under section 2 of the 1969 Act;

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

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

“rockburst” means a sudden failure of stopes, pillars, walls or other rock buttresses adjacent to or in the mine workings.

Application

3.—(1) These Regulations shall apply to all mines.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and as if that self-employed person were both an employer and a person at work.

Health and safety document

4.—(1) The owner of every mine shall ensure that work shall not be carried out at the mine unless a document (in these Regulations referred to as the “health and safety document”) has been prepared which—

(a) demonstrates that the risks to which persons at work at the mine are exposed have been assessed in accordance with regulation 3 of the Management of Health and Safety at Work Regulations (Northern Ireland) 1992(b);

(b) demonstrates that adequate measures, including measures concerning the design, use and maintenance of the mine and its equipment, have been and will continue to be taken to safeguard the health and safety of the persons at work; and

(a) 1969 c. 6 (N.I.)

(b) S.R. 1992 No. 459 as amended by S.R. 1994 No. 478

(c) includes a statement of how the measures referred to in sub-paragraph (b) will be co-ordinated.

(2) In addition to the matters referred to in paragraph (1), the health and safety document shall where appropriate also include—

(a) a plan detailing the equipment and measures required to protect persons at work at the mine from the risk of explosion;

(b) a fire protection plan detailing the likely sources of fire, and the precautions to be taken to protect against, to detect and combat the outbreak and spread of fire;

(c) where toxic gases are or may be present in the atmosphere at the mine, in such concentration that the atmosphere may be harmful to the health of persons at work, a plan detailing the protective equipment and measures required to protect persons at work at the mine from the harmful atmosphere; and

(d) in any zone below ground where rockbursts or gas outbursts may occur, an operating plan setting out as far as possible the susceptible zones and the measures necessary for the protection of persons at work in, approaching or traversing such zones.

(3) The owner shall ensure that the health and safety document is—

(a) kept up to date and revised where necessary including, without limitation, if the mine undergoes major changes (including natural changes), extensions or conversions; and

(b) made available to each employer of persons at work at the mine.

(4) The owner shall ensure that the measures identified in the health and safety document are taken and that any plans included in that document are followed.

Co-ordination

5. The owner shall co-ordinate the implementation of all measures relating to the health and safety of the persons at work at the mine.

Additional health and safety requirements

6.—(1) Subject to paragraph (2)—

(a) every employer of persons at work at a mine shall ensure that the additional health and safety requirements set out in Part I of the Schedule; and

(b) every owner of a mine shall ensure that the additional health and safety requirements set out in Part II of the Schedule,

are in each case complied with as appropriate having regard to the features of the mine, to the nature and circumstances of the work carried on there and to the provisions of the health and safety document.

(2) The additional health and safety requirements referred to in paragraph (1) shall apply without prejudice to the requirements of the relevant statutory provisions relating to the mine.

Health surveillance

7.—(1) An employer of a person at work at a mine shall ensure that he is provided with such health surveillance as is appropriate; and where that person is assigned to the work after 31st December 1995, the health surveillance shall be commenced before he is so assigned.

(2) In this regulation “appropriate” means appropriate having regard to the nature and magnitude of the risks to the health and safety of the persons created by the relevant work.

Hydraulic fluids at a mine

8.—(1) Subject to paragraph (2), the manager of every mine shall ensure so far as is reasonably practicable that only hydraulic fluids which are both difficult to ignite and satisfy any specifications relating to fire resistance and hygiene approved for the purposes of this regulation are used at the mine.

(2) Where it is not reasonably practicable to use hydraulic fluids which satisfy the requirements of paragraph (1), the manager shall ensure that appropriate action is taken to avoid any increased risk of fire resulting from the use of the hydraulic fluid.

Disapplication of section 135 of the 1969 Act

9. Section 135 of the 1969 Act (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 or prohibition imposed by these Regulations.

Revocations

10. The Coal and Other Mines (Working Plans) Rules (Northern Ireland) 1970(a) and the Coal and Other Mines (Abandonment Plans) Rules (Northern Ireland) 1970(b) are hereby revoked.

Sealed with the Official Seal of the Department of Economic Development on 5th October 1995.

(L.S.)

Philip B. Strong

Assistant Secretary

(a) S.R. & O. (N.I.) 1970 No. 126

(b) S.R. & O. (N.I.) 1970 No. 134

Additional Health and Safety Requirements**PART I****REQUIREMENTS ON EMPLOYERS**

The additional health and safety requirements on an employer of persons at work at a mine are as follows:—

Work permits

1.—(1) Where it is shown by the health and safety document that such a measure is necessary, a system of work permits shall be introduced for carrying out hazardous operations and usually straightforward operations which may interact with other activities to cause serious hazards.

(2) Work permits shall specify the conditions to be fulfilled and the precautions to be taken before, during and after the work concerned and shall be issued by the employer or person at work in charge of those operations.

PART II**REQUIREMENTS ON OWNERS**

The additional health and safety requirements on every owner of a mine are as follows:—

Lighting

1. Every place above ground at a mine where a person is likely to be exposed to risks in the event of the failure of artificial lighting shall be provided with emergency lighting of adequate intensity and where that is impractical persons at work in that place shall be provided with a personal lamp.

Control of explosive atmospheres above ground

2. Where there is a risk of an unintended explosion at any place above ground at a mine, all necessary measures shall be taken with a view to—

- (a) preventing the occurrence and accumulation of explosive atmospheres; and
- (b) preventing the ignition of explosive atmospheres.

Smoking and use of open flame

3. At every place at a mine where there is a risk of fire or explosion—

- (a) smoking shall be forbidden; and
- (b) an open flame shall not be used nor any work carried out which may give rise to an ignition hazard unless safety precautions are first taken to prevent the occurrence of any fire or explosion.

Fire-fighting equipment

4. The location of fire-fighting equipment shall be indicated by signs which are placed at appropriate points at the mine.

Written instructions

5. Written instructions shall be drawn up for every mine which shall set out comprehensible—

- (a) rules and safety instructions to be observed to ensure the health and safety of persons at work and the safe use of equipment; and
- (b) information on the use of emergency equipment and action to be taken in the event of an emergency at or near any place of work at the mine.

Flammable materials taken below ground

6. Flammable materials taken below ground at a mine shall be limited to the quantity which is strictly necessary.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations give effect (to the extent specified below), as respects Northern Ireland, in relation to mines, to Council Directive No. 92/104/EEC concerning the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries. The Regulations also contain other provisions.

2. The Regulations implement as respects Northern Ireland the Directive with respect to—

- (a) safety instructions (Article 3.1(d)), the drawing up of a “health and safety document” and the carrying out of work in accordance with it (Article 3.2 and Point 1 of Part C of the Annex to the Directive) and the co-ordination of health and safety measures (Article 3.3, second paragraph);
- (b) health surveillance (Article 8);
- (c) the following matters in Part A of the Annex:
 - (i) written instructions (Point 1.6) and work permits (Point 1.8);
 - (ii) smoking and the use of open flame (Point 4.1.2), protection from explosion risks (Point 4.2), protection plans where toxic gases are present in the atmosphere (Point 4.3.3), fire protection plans (Point 4.4.4) and fire-equipment signs (Point 4.4.5);
 - (iii) provision of emergency lighting and personal lamps (Point 13.4);
- (d) operating plans for rockbursts and gas outbursts (Point 10.1, Part C of the Annex);
- (e) flammable materials (Point 11.2, Part C of the Annex) and hydraulic fluids (Point 11.3, Part C of the Annex).

3. Regulation 4 requires the owner of every mine to ensure that work is not carried out at the mine unless a health and safety document has been prepared which demonstrates that the risks to which persons at work at the mine are exposed have been assessed and that adequate measures have and will be taken to safeguard their health and safety. That regulation also provides that, where appropriate, specified plans should be included in the document. In addition, the owner is required to ensure that the measures set out in the document are taken and that any plans included in the document are followed.

4. Regulation 5 provides that the owner shall co-ordinate the implementation of all measures relating to the health and safety of the persons at work at the mine.

5. Regulation 6 provides that every employer of persons at work at a mine and every owner of a mine shall ensure that the additional health and safety requirements, set out in Parts I and II of the Schedule respectively, are, as appropriate having regard to specified matters, complied with.

6. Regulation 7 requires an employer of a person engaged in work at a mine to ensure that that person is provided with such health surveillance as is appropriate.

7. Regulation 8 requires the manager of every mine to ensure so far as is reasonably practicable that only hydraulic fluids which are difficult to ignite and satisfy fire resistance and hygiene specifications approved by the Department of Economic Development are used at the mine. Where not reasonably practicable, the manager is required to ensure that appropriate action is taken to avoid any increased risk from the use of the hydraulic fluid.

8. Regulation 9 provides that section 135 of the Mines Act (Northern Ireland) 1969 (which provides a defence in legal proceedings and prosecutions in certain circumstances), shall not apply to prosecutions or other legal proceedings based on an alleged contravention of the Regulations.

9. Regulation 10 revokes the Coal and Other Mines (Working Plans) Rules (Northern Ireland) 1970 and the Coal and Other Mines (Abandonment Plans) Rules (Northern Ireland) 1970.

10. A person who contravenes the Regulations 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.