

SCHEDULE 5

Regulation 8

Additional provisions relating to mines

1. In this Schedule—

“nominated person” means the person (if any) who is for the time being nominated—

- (a) in a case where there is an association or body representative of a majority of the total number of persons employed at a mine, by that association or body;
- (b) in any other case, jointly by associations or bodies which are together representative of such a majority,

to receive on behalf of the persons so employed notices under this Schedule.

2. Where at a mine any person, as a result of an accident arising out of or in connection with work, dies or suffers any major injury, or where there is a dangerous occurrence, the responsible person shall—

- (a) forthwith notify the nominated person thereof by the quickest practicable means; and
- (b) within 7 days send a report thereof to the nominated person on a form approved for the purposes of regulation 3.

3. Where there is a non-fatal injury to any person at a mine which is reported in accordance with paragraph 2, after which that person dies and his death is as a result of the accident, then as soon as it comes to his knowledge the responsible person shall give notice of the death to the nominated person.

4.—(1) Where there is an accident or dangerous occurrence in relation to which paragraph 2 applies, a person shall not disturb the place where it happened or tamper with anything at that place before—

- (a) the expiration of 3 clear days after the matter to which paragraph 2 applies has been notified in accordance with these Regulations; or
- (b) the place has been visited by an inspector and by workmen’s inspectors exercising the powers conferred on them by section 105 of the Mines Act (Northern Ireland) 1969(1), whichever is the sooner.

(2) Nothing in sub-paragraph (1) shall prohibit the doing of anything by or with the consent of an inspector.

(3) The requirements of sub-paragraph (1) shall not apply to an accident or to a dangerous occurrence if the responsible person—

- (a) has taken adequate steps to ascertain that disturbing the site—
 - (i) is unlikely to prejudice any investigation by an inspector into the circumstances of the accident or dangerous occurrence; and
 - (ii) is necessary to secure the safety of any person at the mine or to avoid disrupting the normal working thereof;
- (b) (except in the case of a non-fatal accident or a dangerous occurrence, where the nominated person or any person designated by that nominated person pursuant to this sub-paragraph cannot be contacted within a reasonable time) has notified the nominated person, or any person designated in writing by the nominated person to receive any such notification, of the proposed disturbance, and gives such a person a reasonable opportunity to visit the site before it is disturbed;

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- (c) has taken adequate steps to ensure that there is obtained such information as will enable a full and accurate plan to be prepared forthwith, which plan shall show the position of any equipment or other item relevant to the accident or dangerous occurrence immediately after it happened; and
- (d) ensures that any equipment or other item relevant to the accident or dangerous occurrence is kept as it was immediately after the incident until an inspector agrees that it may be disposed of.

(4) The person who has taken the steps referred to in sub-paragraph (3)(c) shall ensure that the plan referred to in that sub-paragraph is signed by the person who prepared it and bears the date on which it was prepared, and that a copy of that plan is supplied on request to any inspector or to the nominated person.

(5) It shall be a defence in proceedings against any person for contravening sub-paragraph (1) in any case which consists of the doing of any act, for that person to prove that the doing of that act was necessary for securing the safety of the mine or of any person.

5. The record kept under regulation 7, excluding any health record of an identifiable individual, shall be available for inspection by—

- (a) the nominated person; and
- (b) workmen's inspectors exercising the powers conferred on them by section 105 of the Mines Act (Northern Ireland) 1969.