



Mines and Quarries Act 1954

1954 CHAPTER 70 2 and 3 Eliz.2

PART XV

MISCELLANEOUS AND GENERAL

Supplementary Provisions

168 Division of mines.

- (1) Where two or more parts of a mine are worked separately, then, if the owner of the mine by notice served on the inspector for the district so requires, each such part shall, until the notice is withdrawn by a subsequent notice served by the owner on the inspector for the district, be treated for the purposes of this Act as a separate mine:
Provided that, where the parts of a mine worked separately, or any of them, have a common system of ventilation or any part of a system of ventilation in common, a notice under this subsection requiring that each part of the mine that is worked separately shall be treated as a separate mine shall be of no effect unless it is approved by an inspector by notice served on the owner of the mine.
- (2) A notice under the foregoing subsection requiring that each part of a mine worked separately shall be treated as a separate mine shall be of no effect unless it specifies the points of separation of all roads connecting the parts of the mine that are worked separately.
- (3) If an inspector is of opinion with respect to a mine whereof parts are, by virtue of this section, for the time being treated for the purposes of this Act as a separate mines, that the division of the mine prejudices or is likely to prejudice the safety or health of the persons employed thereat (or any of them), he may serve on the owner of the mine a notice directing that subsection (1) of this section shall cease to apply to the mine.

The provisions of this Part of this Act with respect to references upon notices served by inspectors shall apply to a notice served under this subsection.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Mines and Quarries Act 1954, Cross Heading: Supplementary Provisions. (See end of Document for details)

169 Demarcation of quarries.

- (1) Where it appears to an inspector that doubt exists with respect to the boundary between two adjoining quarries, he may, by notice served on the owner of the quarries in a case where the same person is owner of both quarries, or on the respective owners of the quarries in any other case, require that, before the expiration of such period as may be specified in the notice, the boundary between the two quarries shall be determined by the owner or, as the case may be, by agreement between the respective owners and as so determined shall be notified to the inspector for the district by written instrument lodged with him by the owner or owners; and the boundary as so notified in compliance with the requirements of the notice shall, subject to any subsequent variation so determined and notified, be deemed for the purposes of this Act to be the boundary between the two quarries.
- (2) In any proceedings taken in respect of the failure of the owner of one of two adjoining quarries who is not also the owner of the other quarry to comply with the requirements of a notice under the foregoing subsection, it shall be a defence to prove that the failure was solely due to his inability to reach agreement with respect to the boundary with the owner of the other quarry.

170 Provisions as to references upon notices served by inspectors.

- (1) The following provisions of this section shall apply in relation to any notice served under any provision of this Act or regulations by an inspector on the owner or manager of a mine or the owner or a manager of a quarry, being a notice which is expressly declared to be one to which the provisions of this Part of this Act with respect to references upon notices served by inspectors are to apply.
- (2) If the person on whom any such notice is served or, in a case where it is served on two or more persons, any of them, by a counter-notice duly served on the inspector who served the notice demands a reference upon the notice, it shall stand referred to a person or persons selected by the nominated selector (as hereinafter defined) from amongst the members of that one of the panels of persons appointed by the Minister under this section which is appropriate to the circumstances of the case:
Provided that, if the said selector is satisfied that special reasons exist which render it expedient for him to act as referee instead of a person or persons selected as aforesaid, he may direct that the notice shall stand referred to him.
- (3) On a reference under this section upon any such notice, any of the following persons may appear in person or be represented, and may give evidence and call such witnesses as he thinks fit, that is to say:—
 - (a) any person on whom the notice was served;
 - (b) any inspector;
 - (c) any association or body representative of a majority of the total number of persons employed at the mine or quarry to which the notice relates;
 - (d) any other persons appearing to the referee or referees to be affected by the notice or any association or body representative of any such persons.
- (4) The following provisions shall have effect with respect to the quashing or confirmation of any such notice upon a reference thereon under this section, namely,—
 - (a) if no relevant ground of objection to the notice is established to the satisfaction of the referee or referees, he or they shall confirm the notice;

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- (b) if a relevant ground of objection is so established, the referee or referees shall quash the notice unless he or they is or are of opinion that the objection can be met by modification of the notice, in which case the referee or referees shall confirm the notice subject to such modification as appears to him or them to meet the objection;

and where the notice is confirmed subject to any modification it shall take effect as modified.

- (5) For the purposes of the last foregoing subsection—
 - (a) in the case of any such notice served under a provision of this Act (other than subsection (3) of section one hundred and sixty-eight), any of the following grounds which are appropriate to the circumstances of the case shall be a relevant ground of objection, namely,—
 - (i) that compliance with a prohibition, restriction or requirement sought to be imposed by or by virtue of the notice is, wholly or to a particular extent, unnecessary, inadvisable for reasons of safety or impracticable;
 - (ii) that any period limited by the notice is insufficient for the purpose of enabling any works to be executed or other thing done;
 - (b) in the case of a notice served under the said subsection (3), the relevant ground of objection shall be that the division of the mine to which the notice relates neither prejudices nor is likely to prejudice the safety or health of any of the persons employed at the mine;
 - (c) in the case of a notice served under any provision of regulations, the relevant ground or grounds of objection shall be such as may be prescribed.
- (6) Save as otherwise expressly provided by this Act or regulations, any such notice shall not become operative in any event until the expiration of the period within which a reference thereon may be demanded under this section or, if within that period such a reference is so demanded, until the notice is confirmed by the referee or referees.
- (7) The quashing under this section of any such notice shall neither be taken to prevent the service by an inspector of a fresh notice nor, if the notice became operative before it was quashed, affect the previous operation thereof.
- (8) The Minister may—
 - (a) constitute such number as he thinks fit of panels of persons from whom referees may be selected for the purposes of references under this section and, as respects each panel, may designate the cases in which it is to be treated for the purposes of this section as the appropriate panel;
 - (b) make rules for regulating such references and, in particular, for making provision with respect to the costs of such references (including the payment of remuneration and allowances to referees) and for specifying the form of a counter-notice under subsection (2) of this section and the period within which such a notice must be served;and different periods may be specified by rules under paragraph (b) of this subsection in relation to the service of counter-notices relating to notices served under different provisions of this Act or regulations.
- (9) The reference in subsection (2) of this section to the nominated selector shall be construed as referring to such person as may for the time being be nominated by the Minister, after consultation with the Lord Chancellor and the Lord President of the

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Court of Session, to discharge the duty of selecting referees to act upon references under this section.

171 Provisions as to knowledge by officials, &c., of Welsh language.

Where the natural language of communication of the persons employed at a mine or quarry or of a substantial number of those persons is Welsh, then, in considering the qualifications of candidates for appointments required, by or by virtue of this Act, to be made in the case of that mine or quarry, regard shall be had to the possession of a knowledge of that language.

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Textual Amendments
F1 Ss.172, 175, 177, 184(2)—(4), (6) repealed by S.I. 1974/2013, Sch. 1 Pt. I

173 Revocation and variation of orders and rules.

Any power conferred by this Act to make a . . . ^{F2} a rule shall be construed as including a power, exercisable in the like manner and subject to the like conditions, if any, to revoke or vary the . . . ^{F2} or rule.

Textual Amendments
F2 Words omitted by virtue of S.I. 1974/2013, Sch. 2 para. 15

[^{F3}**174 †Parliamentary control of orders, rules and regulations.**

- (1) The power conferred by section 170(8)(b) of this Act on the Secretary of State to make rules shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The provisions of section 50 of the ^{M1}Health and Safety at Work etc. Act 1974 shall apply to the power mentioned in the preceding paragraph as they apply to a power to make regulations.]

Textual Amendments
F3 S. 174 substituted by S.I. 1974/2013, Sch. 2 para. 16

Modifications etc. (not altering text)
C1 Unreliable marginal note

Marginal Citations
M1 1974 c. 37.

175 ^{F4}

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Textual Amendments

F4 Ss.172, 175, 177, 184(2)—(4), (6) repealed by S.I. 1974/2013, **Sch. 1 Pt. I**

176 Provisions as to exemptions, &c.

- (1) Any power conferred by this Act or regulations [^{F5}or health and safety regulations which expressly apply to all mines or quarries, any class of mines or quarries or a particular mine or quarry] on [^{F6}the Health and Safety Executive] or an inspector to grant, give or impose an exemption, consent, approval, authority, direction, requirement, prohibition or restriction or to make a determination shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary or revoke the exemption, consent, approval, authority, direction, requirement, prohibition, restriction or determination.
- (2) Any exemption, consent, approval or authority granted or given under this Act or regulations [^{F5}or such health and safety regulations] by [^{F6}the Health and Safety Executive] or an inspector may (subject to any express provision of this Act or regulations [^{F5}or such health and safety regulations]) be without limit of period or limited so as to expire on a specified date unless renewed, and may be absolute or conditional.

Textual Amendments

- F5** Words inserted by S.I. 1974/2013, **Sch. 2 para. 17**
F6 Words substituted by virtue of S.I. 1974/2013, **Sch. 2 para. 3**

177 ^{F7}

Textual Amendments

F7 Ss.172, 175, 177, 184(2)—(4), (6) repealed by S.I. 1974/2013, **Sch. 1 Pt. I**

178 Expenses and receipts.

Any expenses incurred under or by virtue of this Act by the Minister shall be defrayed out of moneys provided by Parliament and any sums received under or by virtue of this Act by the Minister shall be paid into the Exchequer.

179 Application to the Crown.

This Act shall apply to mines and quarries belonging to Her Majesty in right of the Crown or to a Government department or held in trust for Her Majesty for the purposes of a Government department.

Modifications etc. (not altering text)

C2 S. 179 extended by Mines Management Act 1971 (c. 20), s. 3(1)

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