



Mines and Quarries Act 1954

1954 CHAPTER 70

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of the mine by notice served on the inspector for the district so requires, each such part shall, until the notice is withdrawn by a subsequent notice served by the owner on the inspector for the district, be treated for the purposes of this Act as a separate mine: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 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.

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, and 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.

172 Power of Minister and inspectors to grant exemptions for limited period from commencement of this Act

Where the Minister is of opinion, with respect to mines or quarries of any class, that by reason of the nature or amount of work involved, or of the shortness of the period during which the mines or quarries are expected to be worked or other special circumstances affecting them, it would not be right to require compliance with a particular provision of Part III or, as the case may be, Part V of this Act forthwith after the commencement of this Act, he may by order exempt mines or quarries of that class from that provision for such period, not exceeding five years beginning with the commencement of this Act, as may be specified in the order; and where an inspector is of the like opinion with respect to a particular mine or quarry, he may by notice served on the responsible person exempt the mine or quarry from that provision for such period, not exceeding five years beginning with the commencement of this Act, as may be specified in the notice.

173 Revocation and variation of orders and rules

Any power conferred by this Act to make an order or 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 order or rule.

174 Parliamentary control of orders, rules and regulations

The powers conferred by this Act on the Minister to make orders, rules and regulations and on the Minister and the Minister of Labour and National Service to make orders shall be exercisable by statutory instrument which (except in the case of special regulations or of an order expressed to relate only to a particular mine or quarry or a particular set of premises) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

175 Mode of service of notices under this Act

- (1) A notice required or authorised by or by virtue of this Act to be served on or given to an inspector may be served or given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (2) A notice required or authorised by or by virtue of this Act to be served on or given to the owner of a mine or quarry may be served or given—
 - (a) where the owner is an individual, by delivering it to him, by leaving it at the office at the mine or quarry or by sending it by post addressed to him at his

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- usual or last known place of abode or the proper postal address of the mine or quarry ;
- (b) where the owner is a body corporate, by delivering it to the secretary or clerk to the body at their registered or principal office or by sending it by post addressed to the secretary or clerk to the body at that office;
 - (c) where the owner is a firm, by delivering it to any partner of the firm or by leaving it at, or sending it by post to, the office of the firm.
- (3) A notice required or authorised by or by virtue of this Act to be served on or given to the manager of a mine or a manager of a quarry may be served or given by delivering it to him, by leaving it at the office at the mine or quarry or by sending it by post addressed to him at the proper postal address of the mine or quarry.
- (4) The foregoing provisions of this section shall apply to the sending or lodging of any document as they apply to the giving of a notice.

176 Provisions as to exemptions, and c

- (1) Any power conferred by this Act or regulations on the Minister 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 by the Minister or an inspector may (subject to any express provision of this Act or regulations) be without limit of period or limited so as to expire on a specified date unless renewed, and may be absolute or conditional.

177 Fees for testing articles

The Minister may charge, in respect of the testing by him of any articles with a view to the certification or approval thereof for the purposes of this Act or regulations, such fees as he may, with the approval of the Treasury, determine.

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.