STATUTORY RULES OF NORTHERN IRELAND

2016 No. 427

HEALTH AND SAFETY

The Mines Regulations (Northern Ireland) 2016

Made - - - - 13th December 2016

Coming into operation 1st February 2017

The Department for the Economy and the Department of Justice acting jointly as the Department concerned(**1**) make the following Regulations in exercise of the powers conferred by Articles 2(5), 4(4) and (6), 17(1) to (6) and (8), 20(2), 40(2) and (4), 43(3), 45, 54(1) and 55(2) of, and paragraphs 1(1), 1(2), 1(3) and 1(4), 2, 3, 5, 6, 7, 8, 9, 10, 11, 12(1), 12(3), 13, 14(1), 15, 17, 18, 19, and 20 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**2**)("the 1978 Order").

The Regulations, apart from the partial revocation referred to in the next paragraph, give effect without modifications to proposals submitted by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**3**) of the 1978 Order after consultations had been carried out in accordance with Article 46(3)(**4**) of the 1978 Order.

It appears to the Department concerned that the partial revocation of the Supply of Machinery (Safety) Regulations 2008(**5**) is expedient as set out in Article 54(1) of the 1978 Order. It also appears to the Departments not to be appropriate to consult bodies in respect of this partial revocation in accordance with Article 54(5) of the 1978 Order.

PART 1

INTERPRETATION AND GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Mines Regulations (Northern Ireland) 2016.

(2) These Regulations shall come into operation on 1st February 2017.

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

(**2**) S.I. 1978/1039 (N.I. 9). Articles 17(4) and 55(2) were amended and Article 20(2) substituted by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1

(**3**) Article 13(1A) was inserted by S.I. 1998/2795 (N.I. 18), Article 4

(**4**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1 and the Health Protection Agency Act 2004 (c.17), section 11 and Schedule 3

(**5**) S.I. 2008/1597

Interpretation

2.—(1) In these Regulations—

"the 1969 Act" means the Mines Act (Northern Ireland) 1969(**6**);

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"the 1995 Regulations" means the Mines and Quarries (Tips and Tipping Plans) Regulations (Northern Ireland) 1995(**7**);

"the 2006 Regulations" means the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006(**8**);

"abandoned mine" means—

(a) a mine to which section 129 of the 1969 Act applied immediately before the date on which these Regulations came into operation; or

(b) a mine in respect of which a notice of abandonment has been given;

"action level" means—

(a) in relation to respirable dust, a concentration in air equal to or greater than 3 mg/m^3 as a time-weighted average over a 40 hour period; and

(b) in relation to respirable crystalline silica, a concentration in air equal to or greater than 0.3 mg/m^3 as a time-weighted average over a 40 hour period;

"appoint" in relation to a person means appoint in writing with a statement summarising the person's duties and authority;

"auxiliary fan" means a fan used or intended to be used at a mine wholly or mainly for ventilating a heading, drift or blind end;

"competent" in relation to a person means a person with sufficient training and experience, or knowledge and other qualities, to enable that person properly to undertake the duties assigned to that person;

"conveyance" means any carriage, cage, skip or kibble in which persons, minerals or materials are wound through a shaft;

"COSHH" means the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003(**9**);

"counterweight" means a frame containing weights connected into a single conveyance winding system to reduce the out of balance static loads within the system;

"danger area" means any part of the mine below ground which is not for the time being safe to work in or pass through;

"DSEAR" means the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2003(**10**);

"escape and rescue plan" has the meaning given in regulation 54;

"emergency" means a situation which renders necessary the evacuation or rescue (or both) of persons from a mine;

"explosive article" means an article containing one or more explosive substances;

"explosive substance" has the meaning given in regulation 2(1) of the 2006 Regulations;

(**6**) 1969. c.6 (N.I.)
(**7**) S.R 1995 No. 296
(**8**) S.R. 2006 No.425 as amended by S.R. 2009 No. 248
(**9**) S.R. 2003 No.34 as amended by S.R. 2003 No. 288 and S.R. 2005 No. 165
(**10**) S.R. 2003 No.152

"explosives" means explosive articles or explosive substances;

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

"ground control measure" means a measure designed to control the movement of the ground, including the provision and installation of support materials;

"health and safety document" has the meaning given in regulation 9(1);

"health surveillance" means an assessment of the state of health of a person, in relation to exposure to inhalable dust;

"inhalable dust" means airborne material which is capable of entering the nose and mouth during breathing, as defined by BS EN 481: 1993(**11**);

"inrush" means a sudden, unexpected inflow into the mine having the potential to expose persons to danger;

"lower explosive limit" means the minimum concentration of vapour in air below which propagation of a flame will not occur in the presence of an ignition source;

"the Management Regulations" means the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(**12**);

"mine" has the meaning given in regulation 3;

"mine operator" means—

(a) in relation to a mine, the person who is in control of the operation of the mine; and

(b) in relation to a mine which is to be constructed or operated, the person who proposes to control its operation or (if that person is not known) the person who in the course of a trade, business or other undertaking carried on by that person has commissioned its design and construction;

"misfire" means an occurrence in relation to the firing of shots where—

(a) testing before firing reveals broken continuity which cannot be rectified; or

(b) a shot or any part of a shot fails to explode when an attempt is made to fire it;

"notice of abandonment" means a notice given under regulation 6(3) that a mine has been abandoned;

"notifiable tip" has the meaning given in regulation 63;

"overwind" means unintentional overtravel of a conveyance or counterweight beyond the limits set by a device installed for the purpose of preventing such overtravel;

"owner" means the person entitled for the time being to work a mine;

"potentially hazardous area" has the meaning given in regulation 34;

"PUWER" means the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(**13**);

"respirable dust" means airborne material which is capable of penetrating the gas exchange region of the lung, as defined by BS EN 481: 1993;

"respiratory protective equipment" means equipment which is intended to be worn or held by a person at work and which protects that person against risks to that person's health from inhalation of harmful substances, and any addition or accessory designed to meet that objective;

(**11**) British Standard: Workplace atmospheres. Size fraction definitions for measurement of airborne particles.
(**12**) S.R. 2000 No.388 as amended by S.R. 2001 No. 348, S.R. 2003 No. 454 and S.R. 2006 No. 255
(**13**) S.R. 1999 No.305

"rockburst" means a sudden, violent failure of stopes, pillars, walls or other rock buttresses adjacent to or in the mine workings;

" self-rescuer" means respiratory protective equipment designed for use while escaping from a mine;

"shaft" includes a staple-pit, raise, winze, or any similar excavation (whether sunk or in the course of being sunk);

"shot" means a single shot or a series of shots fired as part of one blast;

"shotfirer" means a person appointed in accordance with the mine operator's written procedures to be responsible for shotfiring operations;

"tip" means an accumulation or deposit of any refuse from a mine (whether in a solid or liquid state or in solution or suspension) other than an accumulation or deposit situated underground, and includes, but is not limited to—

(a) overburden dumps, backfill, spoil heaps, stock piles and lagoons, and

(b) any wall or other structure that retains or confines a tip;

"tips rules" has the meaning given by regulation 66;

"ventilation plan" has the meaning given by regulation 59;

"winding apparatus" means mechanically operated apparatus for lowering and raising loads through a shaft and includes a conveyance or counterweight attached to such apparatus and all ancillary apparatus.

(2) For the purposes of these Regulations, a mine is treated as being worked at any time when—

(a) there are persons at work below ground; or

(b) plant or equipment is in operation at the mine to maintain the safety of that mine or of any other mine; or

(c) the operation of sinking a shaft or driving an outlet is being undertaken at the mine.

(3) For the purposes of these Regulations, the mine with which a tip is associated is determined as follows—

(a) in the case of a tip on premises which are deemed to form part of a mine, the tip is associated with that mine;

(b) in the case of a tip not falling within paragraph (a) but on premises which, at any time after the date on which these Regulations come into operation, have been deemed to form part of a mine, the tip is associated with that mine, or (if applicable) the most recent mine of which the tip has been deemed to form part; and

(c) in any other case, the tip is associated with the mine from which refuse is deposited on the tip, or, in the case of a tip which is used for the deposit of refuse from more than one mine, whichever of those mines the Executive directs in writing.

Meaning of "mine"

3.—(1) This regulation defines "mine" for the purposes of these Regulations.

(2) "Mine" means an excavation or system of excavations (including all excavations to which a common system of ventilation is provided) made for the purpose of, or in connection with, the extraction, wholly or substantially by means involving persons working below ground, of—

(a) minerals (in their natural state or in solution or suspension), or

(b) mineral products.

(3) A mine is deemed to include so much of the surface (including buildings, structures or works on it) surrounding or adjacent to the shafts or outlets of the mine as is occupied with the mine for the purpose of, or in connection with—

(a) working the mine,

(b) the storage, treatment or preparation for sale, consumption or use of minerals or mineral products extracted from the mine, or

(c) the removal from the mine of minerals or mineral products extracted from it or of refuse from it.

(4) A mine is not deemed to include premises in which a manufacturing process is carried on for a purpose other than—

(a) working the mine, or

(b) the preparation for sale of minerals extracted from the mine.

(5) Premises used to deposit refuse from a single mine and occupied exclusively by the owner of the mine are deemed to form part of the mine.

(6) Premises used to deposit refuse from two or more mines and occupied by the owner of one of the mines (either exclusively or jointly with the owner of the other or any of the others) are deemed to form part of whichever of the mines the Executive directs in writing.

(7) A railway line serving one or more mines, other than a line falling within paragraph (3) or belonging to a railway company, is deemed to form part of the mine or (if more than one) of whichever of the mines the Executive directs in writing.

(8) A conveyor or aerial ropeway provided for the removal from a mine of minerals extracted from it, or of refuse from it, is deemed to form part of the mine.

Application of these Regulations

4.—(1) Subject to paragraphs (2), (5) and (6), and except where a contrary intention appears, these Regulations apply to all mines.

(2) Subject to regulation 69 (plans of abandoned mines), these Regulations do not apply to abandoned mines.

(3) These Regulations apply to a tip if—

(a) the tip is on premises which are deemed to form part of a mine under regulation 3; or

(b) the tip is not on such premises but the mine with which it is associated has not been abandoned and the premises on which the tip is situated continue to be occupied exclusively by the owner of that mine.

(4) If a tip is not, apart from this regulation, deemed to form part of a mine under regulation 3 by reason only that part, but not the whole, of the premises on which the tip is situated is occupied exclusively by the owner of the mine, the tip is deemed to be one to which these Regulations apply and the premises on which it is situated are deemed to form part of the mine with which it is associated.

(5) The Executive may by direction in writing given to the mine operator and owner direct that, as from such day as may be specified in the direction, a tip or part of a tip is, for the purposes of paragraph (4), one to which these Regulations no longer apply.

(6) If the whole or any part of a tip which, apart from this paragraph, would be a tip to which these Regulations apply is appropriated to some use which, in the opinion of the Executive, is inconsistent with the resumption of tipping operations on the tip, or on a particular part of it, the Executive may direct in writing that, as from the day specified in the direction, the whole or part or any part of the tip that is specified in the direction ceases to be a tip to which these Regulations apply.