

SCHEDULE 5

Regulation 74

Modifications

PART 1

Modifications to primary legislation

1. In the 1969 Act:

(a) for section 156 substitute the following—

**“Meaning of “mine”**

156.—(1) This section defines “mine” for the purposes of this Act.

(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) But 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.

(7) A railway line serving one or more mines, other than a line falling within subsection (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.

(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.”;

(b) in section 158, for paragraph (a) of subsection (3) substitute the following—

“(a) a mine shall be treated as being worked at any time when there are persons at work below ground or plant or equipment is in operation at the mine to maintain the safety of that mine or of any other mine or the operation of driving a shaft or outlet is being undertaken at the mine.”

## PART 2

### Modifications to secondary legislation

2. In the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979<sup>(1)</sup>, in regulation 5(4), omit “section 105 of the Mines Act (Northern Ireland) 1969 or”.
3. In the Health and Safety (First Aid) Regulations (Northern Ireland) 1982<sup>(2)</sup>—
  - (a) in regulation 2, in the definition of “mine”, for “section 156 of the Mines Act (Northern Ireland) 1969” substitute “regulation 3 of the Mines Regulations (Northern Ireland) 2016”;
  - (b) for regulation 8 substitute—

#### **“Application to mines**

8.—(1) Subject to paragraph (2), these Regulations (except regulation 3(3) and (4) and regulation 5) shall apply to mines.

(2) In their application to mines—

- (a) regulation 3(1), (2) and (5) and regulation 4 shall have effect as if the mine operator were the employer and as if all persons for the time being at work in the mine were the mine operator’s employees; and
- (b) regulation 3(2) shall be read as if the words “Subject to paragraphs (3) and (4)” were omitted.

(3) In this regulation, “mine operator” has the meaning given by regulation 2(1) of the Mines Regulations (Northern Ireland) 2016.”

4. In the Electricity at Work Regulations (Northern Ireland) 1991—
  - (a) in regulation 3(1)<sup>(3)</sup>—
    - (i) for sub-paragraph (b)(i), substitute—

“(i) mine operator, in relation to a mine within the meaning of regulation 3 of the Mines Regulations (Northern Ireland) 2016, and”; and
    - (ii) for “of which he is the manager” substitute “of which he is the mine operator”;
  - (b) for regulation 3(3), substitute—

“(3) In this regulation—

“owner”, “occupier”, “agent” and “quarry” have the meanings respectively assigned to them by Article 2(2) of the Quarries (Northern Ireland) Order 1983; and

“mine operator” has the meaning given by regulation 2(1) of the Mines Regulations (Northern Ireland) 2016.”; and
  - (c) in regulation 29, for “15,16 or 25” substitute “15 or 16”.

5. In the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993<sup>(4)</sup>, for regulation 3 substitute—

#### **“Application of these Regulations**

3.—(1) These Regulations shall apply to every workplace but shall not apply to—

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(1) S.R. 1979 No. 437

(2) S.R. 1982 No.429

(3) Regulation 3(1)(b) was substituted by S.R. 2006 No. 205

(4) S.R. 1993 No. 37

- (a) a workplace which is or is in or on a ship, save that regulations 8(1) and (3) and 12(1) and (3) shall apply to such a workplace where the work involves any of the relevant operations in—
    - (i) a shipyard, whether or not the shipyard forms part of a harbour or wet dock; or
    - (ii) dock premises, not being work done—
      - (aa) by the master or crew of a ship;
      - (bb) on board a ship during a trial run;
      - (cc) for the purpose of raising or removing a ship which is sunk or stranded; or
      - (dd) on a ship which is not under command, for the purpose of bringing it under command;
  - (b) a workplace which is a construction site within the meaning of the Construction (Design and Management) Regulations (Northern Ireland) 2016, and in which the only activity being undertaken is construction work within the meaning of those Regulations, save that—
    - (i) regulations 18 and 25A apply to such a workplace; and
    - (ii) regulations 7(1A), 12, 14, 15, 16, 18, 19 and 26(1) apply to such a workplace which is indoors; or
  - (c) a workplace located below ground at a mine, except that regulation 20 shall apply to such a workplace subject to the modification in paragraph (7).
- (2) Regulation 12 shall not apply to a workplace located above ground at a mine that is a tip (within the meaning of regulation 2(1) of the Mines Regulations (Northern Ireland) 2016).
- (3) In their application to temporary work sites, any requirement to ensure a workplace complies with any of regulations 20 to 25 shall have effect as a requirement to so ensure so far as is reasonably practicable.
- (4) As respects any workplace which is or is in or on an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994 or a vehicle exempted from duty under that Act—
- (a) regulations 5 to 12 and 14 to 25 shall not apply to any such workplace; and
  - (b) regulation 13 shall apply to any such workplace only where the aircraft, locomotive or rolling stock, trailer or semi-trailer or vehicle is stationary inside a workplace and, in the case of a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994, is not on a public road.
- (5) As respects any workplace which is in fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings—
- (a) regulations 5 to 19 and 23 to 25 shall not apply to any such workplace; and
  - (b) any requirement to ensure that any such workplace complies with any of regulations 20 to 22 shall have effect as a requirement to so ensure so far as is reasonably practicable.
- (6) As respects any workplace that is a quarry—
- (a) regulation 12 only applies to a floor or traffic route that is located inside a building; and

*Status: This is the original version (as it was originally made).*

(b) regulation 20 shall apply to such a workplace subject to the modification in paragraph (7).

(7) In relation to any workplace that is a quarry or located below ground at a mine, the requirement that sanitary conveniences provided under regulation 20 shall be at readily accessible places shall have effect as a requirement that such sanitary conveniences shall be, so far as is reasonably practicable, at readily accessible places.

(8) For the purposes of this regulation—

- (a) “dock premises” means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities;
- (b) “mine” means a mine within the meaning of regulation 3 of the Mines Regulations (Northern Ireland) 2016;
- (c) “relevant operations” means, in relation to a ship, its repairing, refitting, painting and finishing, the scaling, scurfing or cleaning of its boilers (including combustion chambers or smoke boxes) and the cleaning of its bilges or oil-fuel tanks or any of its tanks last used for carrying oil;
- (d) “ship” includes all vessels and hovercraft which operate on water or land and water;
- (e) “shipyard” means any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted or finished; and
- (f) “vessel” means any description of craft used for the transport of goods or passengers or the storage of goods or the accommodation of passengers on water, whether used in navigation or not.”

6. In the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999<sup>(5)</sup>, in regulation 2(1), in the definition of “mine” for “section 156(1) of the Mines Act (Northern Ireland) 1969” substitute “section 156 of the Mines Act (Northern Ireland) 1969”.

7. In the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999<sup>(6)</sup>, for regulation 9(5), substitute—

“(5) This regulation does not apply to winding apparatus to which the Mines Regulations (Northern Ireland) 2016 apply.”

8. In the Ionising Radiations Regulations (Northern Ireland) 2000<sup>(7)</sup> in regulation 4—

(a) for paragraph (2) substitute—

“(2) Duties under these Regulations imposed upon the employer shall also be imposed upon the mine operator of a mine (within the meaning of regulation 3 of the Mines Regulations (Northern Ireland) 2016) in so far as those duties relate to the mine of which he is the mine operator and to matters under his control.”;

(b) after paragraph (4) insert—

“(5) In this regulation, “mine operator” has the meaning given by regulation 2(1) of the Mines Regulations (Northern Ireland) 2016.”

9. In PUWER, in place of regulation 6(5)(d) substitute—

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<sup>(5)</sup> S.R. 1999 No.90

<sup>(6)</sup> S.R. 1999 No.304

<sup>(7)</sup> S.R. 2000 No.375

“(d) winding apparatus to which the Mines Regulations (Northern Ireland) 2016 apply;”

10. In the Quarries Regulations (Northern Ireland) 2006<sup>(8)</sup> in regulation 3(1)(c) for “section 156 of the 1969 Act” substitute “regulation 3 of the Mines Regulations (Northern Ireland) 2016”.

11. In the Pressure Systems Safety Regulations (Northern Ireland) 2004<sup>(9)</sup>, in regulation 2(1), in the definition of “user”, for paragraph (a) substitute—

“(a) a mine within the meaning of regulation 3 of the Mines Regulations (Northern Ireland) 2016 it means the mine operator (within the meaning of regulation 2(1) of those Regulations) for the time being of that mine;”.

12. In the REACH Enforcement Regulations 2008<sup>(10)</sup>, in paragraph 1(m)(ii) of Part 1 of Schedule 3 for “section 156(1) of the Mines Act (Northern Ireland) 1969 ” substitute “section 156 of the Mines Act (Northern Ireland) 1969” .

13. In the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997<sup>(11)</sup>—

(a) in regulation 2(1)—

(i) for the definition of “mine” substitute—

““mine” has the meaning given by regulation 3 of the Mines Regulations (Northern Ireland) 2016 and for the purposes of these Regulations includes a tip within the meaning of regulation 4(3)(b) of those Regulations which is associated with such a mine.”;

(ii) in the definition of “responsible person”, in paragraph (a)(i) for “the manager of that mine” substitute “the mine operator (within the meaning of regulation 2(1) of the Mines Regulations (Northern Ireland) 2016) of that mine”;

(b) in Part 2 of Schedule 2—

(i) in paragraph 24, for “regulation 13(1) of the Coal and other Mines (Fire and Rescue) Regulations (Northern Ireland) 1970 or section 79 of the Mines Act (Northern Ireland) 1969” substitute “an escape and rescue plan within the meaning of regulation 54 of the Mines Regulations (Northern Ireland) 2016”;

(ii) in paragraph 34, for “regulation 4 of the Mines (Safety of Exit) Regulations (Northern Ireland) 1998” substitute “regulation 51 of the Mines Regulations (Northern Ireland) 2016”; and

(iii) in paragraph 37, for “Part XI of the Mines Act (Northern Ireland) 1969 applies” substitute “the Mines Regulations (Northern Ireland) 2016 apply”.

(c) in paragraphs 4(1)(b) and 5(b) of Schedule 5, for “workmen’s inspectors exercising the powers conferred on them by section 105 of the Mines Act (Northern Ireland) 1969” substitute “safety representatives exercising the powers conferred on them by regulation 5 of the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979 in relation to a mine”.

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<sup>(8)</sup> S.R. 2006 No. 205

<sup>(9)</sup> S.R. 2004 No. 222

<sup>(10)</sup> S.I. 2008/2852

<sup>(11)</sup> S.R. 1997 No.455 as amended by S.R. 2004 No. 196