



High Peak Mining Customs and Mineral Courts Act 1851

1851 CHAPTER 94 14 and 15 Vict

I Short Title. **U.K.**

In citing this Act in other Acts of Parliament, and in legal Instruments and on all other Occasions, it shall be sufficient to use the Expression “The *High Peak* Mining Customs and Mineral Courts Act 1851,” and the Schedules to this Act shall be considered as forming Part thereof.

II Interpretation Clause. **U.K.**

In construing this Act the following Words and Expressions shall have the Meaning hereby assigned to them, unless there be something in the Context of the Act repugnant to such Construction; that is to say,

The Word “Steward” shall mean Deputy Steward:

The Words “County Court” shall mean any County Court having Jurisdiction over any Part of the District over which the Barmote Courts have Jurisdiction by this Act:

The Word “Gift” shall mean the setting out by the Barmaster of any Ground in manner herein-after provided:

The Word “Founder” shall mean the Point at which a Vein of Ore shall be first found; and the Words “Founder Meers” shall mean the Two first Meers to be set out to the Finder under the Provisions of this Act:

The Words “Mine or Mines, Vein or Veins,” shall mean a Mine or Mines, Vein or Veins, of Lead Ore, and shall include Parts of or Shares in any Mine or Vein as well as entire Mines and Veins, and all Minerals containing Lead Ore:

The Word “Ore” shall mean Lead Ore and Belland exclusively:

The Word “Barmaster” shall include Deputy Barmasters:

The Words “Mineral Property” shall include Mines and Veins of Lead, and Parts of or Shares in any such Mines or Veins, and the Works, Rights, and Appurtenances connected therewith, and also Lead Ore, and all Tools, Materials, Goods, Chattels, and Effects used in searching for, getting, cleansing, or preparing Lead Ore, whether such Tools, Materials, Goods, Chattels, or Effects be or be found in or upon any Mine or Works or elsewhere.

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III Steward. **U.K.**

From and after the passing of this Act it shall be lawful for the Queen's most Excellent Majesty and Her Successors to nominate and appoint, from Time to Time, by Letters Patent under the Seal of the Duchy of *Lancaster*, a fit and proper Person, being a Barrister-at-Law of Five Years standing, or a Member of One of the Inns of Court who has practised as a Special Pleader for Ten Years, or [^{F1}a solicitor of the Supreme Court] of Seven Years standing, to be and to be called the Steward of the *High Peak* Barmote Courts, and such Steward shall hold his Office during the Will and Pleasure of Her Majesty and Her Successors.

Textual Amendments

- F1** Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#) and [Solicitors Act 1974 \(c. 47\), s. 89\(6\)](#)

IV Steward may appoint a Deputy. **U.K.**

It shall be lawful for the Steward to appoint from Time to Time a Deputy Steward qualified to be appointed Steward of the said Court, to act for him at any Time when he shall be prevented by Illness or unavoidable Absence from acting in such Office, and to remove such Deputy at his Pleasure, and such Deputy while acting under such Appointment shall have the like Powers and Privileges, and be subject to the like Provisions, Duties, and Penalties for Misbehaviour, as if he were the Steward of the Court for the Time being.

V Duties of Steward. **U.K.**

The Duties of the said Steward shall be to receive and enter Plaints in a Book to be kept by him for that Purpose, which may be in the Form comprised in the Second Schedule to this Act; to issue Summonses, to hold and preside at the Great and Small Barmote Courts; to issue Precepts under his Hand to the Barmaster for summoning the Attendance of the Grand Jury on Views and at the Great Barmote Courts, and also Precepts to the Barmaster for summoning and empannelling Jurors for the Trials of Causes at the Small Barmote Courts; to administer Oaths to the Barmaster, Deputy Barmaster, Jurors, Witnesses, or other Persons (at and out of the Great and Small Barmote Courts); to preside as Judge on the Trial of Causes at the Small Barmote Courts; to tax Costs in all Cases where by this Act Costs are or may be given; to attend and preside at Views; to sign and issue Subp^{nas} for the summoning of Witnesses and the Process of the Courts, both mesne and final, and all Rules and Orders of the Courts, and Warrants for enforcing the Judgments of the Courts, and levying Penalties; to make Returns to [^{F2}orders of certiorari]; to advise the Barmasters and Grand Juries and other Juries upon Matters of Law, and all other Matters connected with their respective Duties; to affix the Seal of the Barmote Courts to such Documents as require the same; to hear and determine Applications to the Courts which do not require the Intervention of a Jury, and to make Orders thereon, upon such Terms as to the Payment of Costs by either Party or otherwise as may to him seem just; to keep the Verdicts, Judgments, Books, and Proceedings of the Great and Small Barmote Courts, and the Seal of the said Courts, and also all Books and Accounts herein-after provided to be kept and delivered to the Steward by the Barmaster, safe and in good Condition, and to deliver up the same to Her Majesty and Her Successors whenever required; and generally to

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do and perform such other Acts and Duties as are in this Act mentioned as Acts and Duties to be performed by the Steward.

Textual Amendments

- F2** Words substituted by virtue of [Administration of Justice \(Miscellaneous Provisions\) Act 1938 \(c. 63\), s. 7\(5\)](#)

VI Courts to be held. U.K.

Two Great Barmote Courts shall be held every Year, One on the First *Tuesday* in the Month of *April*, and the other on the First *Tuesday* in the Month of *October*, but if the First *Tuesday* in *April* be in Passion Week or *Easter Tuesday*, or a Day appointed for a Public Fast or Thanksgiving, then such Court shall be held on the *Tuesday* next after, instead of being holden on such First *Tuesday*; and Small Barmote Courts shall be held from Time to Time as Occasion shall require, but not on the Days appointed for the holding of the Great Barmote Courts; the Great Barmote Courts shall be held at *Monyash* in the County of *Derby*, and the Small Barmote Courts at any Place within the Jurisdiction of the said Courts which may be appointed by the Steward, which Place may be varied at any Time or from Time to Time.

VII Business at Barmote Courts. U.K.

The Matters to be transacted at the Great Barmote Courts shall be the swearing in of the Grand Jury, and such other Matters as are in this Act mentioned as being Matters to be transacted at the Great Barmote Courts; and the Matters to be transacted at the Small Barmote Courts shall be the Trial of Actions of Title, Trespass, and Debt, and such other Matters as are in this Act mentioned as being Matters to be transacted at the Small Barmote Courts.

VIII Seal of the Courts. U.K.

There shall be a Seal or Stamp provided by the Steward, with the Words “The Seal of the *High Peak* Barmote Courts” thereon, and all Proceedings in the Great and Small Barmote Courts which are required to be signed by the Steward shall be sealed or stamped therewith.

IX Barmasters. U.K.

It shall be lawful for Her Majesty and Her Successors to appoint during Pleasure only (by Letters Patent under Seal of the Duchy of *Lancaster*) a fit and proper Person to serve the Office of Barmaster of the District within the Jurisdiction of the Barmote Courts, and to be called the Barmaster of the *High Peak*; and the Barmaster for the Time being may (with the Consent in Writing of the Lessee for the Time being of the Duties of Lot and Cope, and if there shall be no such Lessee then with the Consent in Writing of Her Majesty or Her Successors, or of the Chancellor for the Time being of the Duchy of *Lancaster*,) nominate Seven fit and proper Persons to serve the Office of Deputy Barmaster, One for each of the Seven smaller Liberties or Districts aforesaid; and the Deputy Barmaster for the Time being of the Liberty or District of *Castleton* shall be also the Deputy Barmaster for such Part of the Hundred of *High Peak* aforesaid as is now vested in Her Majesty in right of Her Duchy of *Lancaster*, but it is not within

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the *King's Field*; and such Deputy Barmasters shall respectively continue in Office during the Continuance in Office of the Barmaster by whom they were appointed, or until they shall be removed as hereinafter mentioned: Provided always, that the Barmaster may, with such Consent as aforesaid, appoint the same Person to act as Deputy Barmaster for any Two or more of the said smaller Liberties.

X Barmaster not to be answerable for his Deputies. U.K.

The Barmaster shall not be answerable for the Acts of the Deputy Barmasters.

XI Removal of Deputy Barmasters. U.K.

It shall be lawful for the Lessee for the Time being of the Duties of Lot and Cope, and if there shall be no such Lessee then for the Chancellor for the Time being of the Duchy of *Lancaster*, to remove any Deputy Barmaster from his Office at the Pleasure of such Lessee and Chancellor respectively.

XII Barmasters to take Oath. U.K.

The Barmaster and Deputy Barmasters respectively may act as such without being sworn, but shall, before or at the Great Barmote Court next after their respective Appointments, be respectively sworn well and truly to serve the Office to which they are appointed, or such Appointment shall be void.

XIII Duties of Head Barmaster. U.K.

The Duties of the Barmaster shall be to execute all such Precepts and Warrants as shall be directed to him, and signed by the Steward and sealed with the said Seal, to attend on Views with the Steward and Deputy Barmaster of the District in which the Mine to be viewed is situate, and where there is no Deputy appointed for any District, to perform all the Duties of the Office of Deputy of such District until a Deputy is appointed, and generally to do and perform such other Acts and Duties as are in this Act mentioned as being Acts or Duties to be done or performed by the Barmaster.

XIV Duties of Deputy Barmasters. U.K.

The Duties of the Deputy Barmasters, whether the Barmaster be absent or present, shall be, to serve Summonses in Actions in the Small Barmote Court relating to Mineral Property within their respective Districts; to serve Summonses on Jurors within their respective Districts; to attend Views on Mines within their respective Districts; to collect the Dues payable within their respective Districts to Her Majesty and Her Successors, or to Her or their Lessee for the Time being, and to keep Accounts of such Dues; to keep a Book, and make therein written Entries and Particulars of all Meers of Ground which shall be measured and set out by them under the Provisions of this Act, and also of all Transfers of Mines which may be made as herein-after provided, and also of all Freeings and other Matters connected with the Mines within their respective Districts; to sign such Book, and to deliver the same half-yearly, together with a fair Copy of the aforesaid Accounts and Entries, also signed by them respectively, each such half-yearly Account to end with the Twenty-fifth of *March* or Twenty-ninth of *September*, to the Steward at the Great Barmote Court next after the Day to which such Accounts shall be made up, or, with the Consent of the Steward, at any Adjournment of the said Court, to produce any such Book, and to make and deliver

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other fair Copies of the aforesaid Accounts at any other Time, upon Demand being made by the Steward for the Production of any such Book, or for any such Copy; and (in all other Cases in which the Barmaster shall not be present and choose to perform such Duties in Person) to perform within their respective Districts all such Duties as are in this Act mentioned as forming Part of the Duties or Business of the Barmaster, and generally to assist the Barmaster, when required by him so to do, in any other Matters forming Part of or connected with the Duties of Barmaster, whether in their own Districts or elsewhere within the Jurisdiction of the Barmote Courts.

XV Courts to be Courts of Record. U.K.

The Great Barmote Court and the Small Barmote Court shall be Courts of Record, and the Steward shall be Judge of each of them, and may out of Court do all such Acts of the Courts respectively as do not require the Presence of a Jury.

XVI Jurisdiction and Customs. U.K.

The Jurisdiction of the said Great and Small Barmote Courts and of this Act shall be held to extend over the whole of the before-mentioned District called the *King's Field*, and also over all the Parts of the Hundred of *High Peak* aforesaid in which Her Majesty in right of Her Duchy of *Lancaster* is entitled to the Mineral Duties, and the Mineral Laws and Customs of that Part of the said Hundred over which the Jurisdiction of the said Great and Small Barmote Courts is hereby declared to extend shall be such as are mentioned and comprised in this Act, and no other alleged Custom or Practice shall be valid.

XVII Practice of Courts. U.K.

The Steward may in any Case, and upon such Terms as to the Payment of Costs by either Party or otherwise as to him shall seem just, make Orders for granting Time to the Plaintiff or Defendant to proceed in the Prosecution or Defence of any Action, and also may from Time to Time adjourn any Great or Small Barmote Court, or the Hearing or further Hearing of any Cause or other Proceeding in the said Courts or either of them, or before the Steward, in such Manner as to the Steward may seem fit, and when any Court is adjourned, the Grand Jurymen and other Jurymen who shall have been summoned to such Court shall attend at the adjourned Court without any further summoning, and shall be liable to the same Penalties for not attending at an adjourned Court as for not attending upon a Summons: Provided always, that the further Hearing of any Cause or other Proceeding of which the Hearing shall have been commenced, and in which any Evidence shall have been given, shall not be adjourned for any longer Period than until the Day next after that on which the Adjournment takes place, or if such next Day be *Sunday, Good Friday, Christmas Day*, or any Day appointed for a Public Fast or Thanksgiving, then until the Day next but One after that on which the Adjournment takes place.

XVIII Examination of Parties. U.K.

On the Hearing or Trial of any Action, or on any other Proceeding under this Act, the Parties thereto, their Wives, and all other Persons, may be examined upon Oath or solemn Affirmation in those Cases in which Persons are by Law allowed to make Affirmation instead of taking an Oath, such Oath or Affirmation to be administered by the Steward.

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XIX False Evidence Perjury. U.K.

Every Person who in any Examination upon Oath or solemn Affirmation before the said Steward shall wilfully and corruptly give false Evidence shall be deemed guilty of Perjury, and shall be liable to be indicted and subject to the same Punishments as may be imposed on Persons guilty of Perjury in any of the Superior Courts [^{F3}at the Royal Courts of Justice].

Textual Amendments

F3 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

XX Penalty for refusing to give Evidence. U.K.

If any Person appearing as a Witness shall refuse to give Evidence or to answer any lawful Question, it shall be lawful for the Steward to impose upon any such Person such Penalty not exceeding Ten Pounds as the said Steward shall think fit.

XXI Penalty for insulting Steward or Disturbance. U.K.

If any Person shall wilfully insult the Steward or either of the said Courts, or create any Disturbance during the Sitting of any Great or Small Barmote Court, or at any View, or shall insult or obstruct the Barmaster at any Time when in the Execution of his Office, it shall be lawful for the said Steward to impose upon any such Person such Penalty not exceeding Ten Pounds as the said Steward shall think fit, and the Steward shall fix a Day on or before which, and a Person to whom, such Penalty shall be paid.

XXII Grand Jury. U.K.

From and after the passing of this Act the Grand Jury shall consist of Twelve Men only, who shall be selected by the Barmaster from amongst Persons resident within the Jurisdiction of the said Great and Small Barmote Courts, and as far as conveniently can be done it shall be the Duty of the Barmaster to select Persons experienced in practical Mining, but a Want of such Experience shall be no Ground of Objection to any Person serving on the Grand Jury if summoned so to do, nor of Exemption from such Service; and the Grand Jury shall be composed in manner herein-after stated, that is to say, of One Man from the Liberty of *Castleton*, of Two Men from the Liberty of *Bradwell*, of Two Men from the Liberty of *Hucklow*, of Two Men from the Liberty of *Winster*, of Two Men from the Liberty of *Monyash*, of One Man from the Liberty of *Taddington*, of One Man from the Liberty of *Upper Haddon*, and of One Man from such Parts within the Jurisdiction of the said Great and Small Barmote Courts as are not within any of the aforesaid Liberties; and at the Second Great Barmote Court which shall be held after the passing of this Act Six of the Grand Jury, to be determined by Lot, shall be discharged and Six new Grand Jurymen substituted, and at every subsequent Great Barmote Court Six of the Grand Jury, being those who have been longest in Office, shall be discharged and Six new Grand Jurymen shall be substituted in their Stead, so that every Member of the Grand Jury shall serve for a Period extending over the holding of Two Great Barmote Courts; and no Person shall be compellable to serve on the Grand Jury oftener than once in Three Years; and as often as any of the Grand Jury shall die or become incompetent to act, the Barmaster shall select another Person in his Place, without waiting for the holding of a Great Barmote Court, and every Member of the Grand Jury shall be sworn in by the Steward as soon as conveniently may be,

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either at a Great or Small Barmote Court or out of Court, as may be most convenient, but every such Member shall be competent to act immediately upon his Appointment as One of the Grand Jury, without waiting for being sworn as aforesaid.

XXIII Duties of Grand Jury. U.K.

The Duties to be performed by the Grand Jury may in Cases where no other Provision is made by this Act be performed by any Eight of the Body, and such Duties shall be to attend at the Great Barmote Courts, and at any other Time upon the Summons of the Barmaster or of any Deputy Barmaster, such Summons to be delivered to all the Members of the Grand Jury, or to be left at their respective last or usual Places of Abode, at least Three Days before the Day on which their Attendance is required to go down into any Mine, Vein, or Mineral Works, and view the same, and give their Opinion on such Matters as are required, of them in any Bill of Directions or Cross Bill delivered to them, and generally to do and perform all such Acts and Duties as are in this Act mentioned as being Acts to be done or Duties to be performed by the Grand Jury.

XXIV Small Barmote Courts. U.K.

The Steward shall, upon the entering of any Plaint, cause a Summons to be issued, and shall, on a Day to be mentioned in such Summons, and within One Calendar Month after the entering of the Plaint, hold a Small Barmote Court for the Trial of the Cause; and the Plaintiff and Defendant, or their respective [^{F4}solicitors] or Agents, shall appear at the Time and Place appointed for the Trial, and the Steward shall proceed in a summary Way to try the Cause, leaving all Matters of Fact in issue in the Cause to be determined by the Jury sworn for the Trial, and shall give Judgment, and the Judgment of the Court shall be enforced by Warrant to be issued under the Hand of the Steward and the Seal of the Barmote Courts, and the Defendant shall be allowed to give Evidence of any Special Matter of Defence.

Textual Amendments

F4 Word substituted by virtue of [Solicitors Act 1974 \(c. 47\), s. 89\(6\)](#)

XXV Service of Summons. Proviso in case Defendant shall refuse to appear or plead. U.K.

The Summons shall be served upon the Defendant by the Barmaster Fourteen clear Days at least before the Day appointed for the Trial, by leaving such Summons at the usual or last Place of Abode of such Defendant, and by affixing a Copy thereof on some conspicuous Part of the Mine to which the Question of Title, Trespass, or Debt to be tried has Reference; and upon Proof of the Service of such Summons the Plaintiff shall be at liberty, if the Defendant do not appear, to proceed to Trial, and if the Steward shall think that he is entitled to recover he shall have Judgment: Provided always, that in Cases where there are more Defendants than One, Service on One of such Defendants shall be deemed sufficient.

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XXVI Proviso in case Plaintiff shall not proceed in the Action. **U.K.**

If the Plaintiff in any Action of Title, Trespass, or Debt shall not proceed to Trial at the Time and Place appointed, the Steward shall cause Judgment as in case of Nonsuit to be entered for the Defendant in such Action.

XXVII New Trials. **U.K.**

The Steward may grant new Trials, and set aside Judgments and other Proceedings, and may stay Proceedings, and in so doing he is hereby directed to act as far as may be on the same Principles as are acted upon in similar Cases by the Superior Courts [^{F5}at the Royal Courts of Justice].

Textual Amendments

F5 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

XXVIII Costs. **U.K.**

The Party who has Judgment in his Favour, in whatever Way such Judgment may be obtained, shall by the same Judgment recover his Costs of Suit or Defence, as the Case may be.

XXIX Appeal. **U.K.**

It shall be lawful for the [^{F6}High Court], or for any Judge of any of the Superior Courts [^{F7}at the Royal Courts of Justice], on the Application of either Plaintiff or Defendant in an Action in the Small Barmote Court, either before or after Trial, on Cause shown by Affidavit to the Satisfaction of such Court or Judge that an impartial or satisfactory Trial cannot be or has not been had in such Barmote Court, or for any other Cause which to such Court or Judge shall seem reasonable, to allow a Certiorari to be issued out of the said [^{F6}High Court] for removing all Proceedings which may have been had in such Action into the said [^{F6}High Court].

Textual Amendments

F6 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), ss. 18\(2\), 224\(1\)](#)

F7 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

XXX Pleadings not to be repeated. **U.K.**

When a Cause is so removed the Pleadings in the Court below shall stand and need not be repeated in the [^{F8}High Court], and shall be of the same Effect there as in the Court below, and if the Pleadings are not complete in the Court below the same Pleadings shall be adopted and with the like Effect in the [^{F8}High Court] as might have been adopted in the Court below, and the [^{F8}High Court] shall give the same Judgment as it shall to the said Court appear ought to have been given if the Cause had been determined in the Court below, and the [^{F8}High Court] or any Judge of One of the Superior Courts may otherwise deal with the said Causes when removed, and make such Rules and Orders in or relating to the same, as to them or him may seem just; and

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all Rules or Orders made by any such Judge shall be liable to be enforced, set aside, or varied by the [F8High Court] in the same Way as Judges Orders may ordinarily be enforced, set aside, or varied; and when Judgment is given in the [F8High Court], a Copy of such Judgment, signed by One of the Masters of the Court, may be lodged with the Steward, and shall thereupon become a Record of the Court below from which the Cause was removed, and shall and may be enforced by the last-mentioned Court in the same Way as if the Judgment had been given by such Court and the Cause had never been removed.

Textual Amendments

- F8 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), ss. 18(2), 224(1)

XXXI Service of Subpœnas on Witnesses good in any Part of England. U.K.

Every Subpœna to attend and give Evidence upon any Trial in the Small Barmote Court, if served personally upon the Person required to give Evidence in any Part of *England* or *Wales* Seven clear Days at the least before the Day fixed for the holding the Court at which such Trial is to be had, shall be as valid and effectual in Law, and shall entitle the Party suing out such Subpœna to all and the like Remedies by Action, as if the same had been issued out of the [F9High Court] in any Cause depending in that Court; and in case the Person served shall not appear as required by the said Subpœna, it shall be lawful for the said Steward, upon Oath or Affirmation taken in open Court of the personal Service of such Subpœna, and of the Tender to the Person so served at the Time of such Service of a reasonable and sufficient Sum of Money to defray the Expenses of coming and attending to give Evidence, and of returning from giving such Evidence, to give to the Party complaining of such Default a Certificate of such Default under the Hand and Seal of the said Steward, and the Party complaining of such Default having obtained such Certificate may apply to the [F9High Court], and the said last-mentioned Court shall thereupon (if it seems to them just to do so) proceed by Attachment or otherwise, according to the Course and Practice of the same Court, against the Person so having made default, in like Manner as the same Court might have done if such Person had neglected or refused to appear in obedience to a Writ of Subpœna issued to compel the Attendance of Witnesses out of such last-mentioned Court, but such Certificate shall not be conclusive either of the due Service of the Subpœna or of the same having been disobeyed, or of any other Matter.

Textual Amendments

- F9 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), ss. 18(2), 224(1)

XXXII Execution may be issued against Mineral Property, and the same sold by the Barmaster. U.K.

Where a Plaintiff obtains Judgment in an Action of Title, and the Defendant shall refuse for the Space of Three Days next after the Day on which Judgment is given to deliver Possession to the Plaintiff, it shall be lawful for the Plaintiff to apply to the Steward, and the Steward shall thereupon issue a Warrant in the Form herein-after mentioned, and the Barmaster shall forthwith execute such Warrant and deliver

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Possession accordingly: Provided always, that no Entry or Seizure under any such Warrant, or under the Warrant next herein-after mentioned, shall be made on a *Sunday*, *Good Friday*, or *Christmas Day*, or on any Day appointed for a Public Fast or Thanksgiving, or at any Time except between the Hours of Nine in the Morning and Four in the Afternoon; and where a Defendant shall for the Space of Three Days after the Day when the Judgment is given or Order made omit to pay any Debt or Damages recovered or awarded to be paid by any Judgment of the Small Barmote Court, or where either Plaintiff or Defendant shall for the Space of Three Days omit to pay any Money or Costs recovered or awarded to be paid by any such Judgment or by any Order made by the Steward, or where any Person shall omit to pay any Penalty imposed by the Steward under the Authority of this Act within the Time appointed by the Steward for Payment thereof, it shall be lawful for the Steward and he is hereby required, upon the Application of the Party in whose Favour or for whose Benefit such Judgment or Order shall have been given or made, or in the Case of a Penalty at his own Discretion, to issue a Warrant in the Form herein-after mentioned, and the Barmaster shall thereupon forthwith take possession of any Mineral Property within the Jurisdiction of the said Barmote Courts which shall belong to the Party so omitting to pay such Debt or Damages, or Money or Costs, or Penalty, and shall sell the same either by Ticket or by Public Auction, or so much thereof as may be necessary to raise the Sum mentioned in such Warrant, and the Fees and Expenses allowed by this Act for executing the same, and shall return any surplus Monies arising from such Sale that may remain, after paying such Debt or Damages, or Money or Costs, or Penalty, and Fees and Expenses as aforesaid, to the Defaulter; and if the Party against whom the Warrant issues has, before the issuing of such Warrant, in fact paid the Debt, Damages, Money, Costs, or Penalty, or any Part thereof, and the Warrant issues for too much, the Steward shall not therefore be liable to any Action, except in Cases where he issues the Warrant of his own Motion and with Knowledge of the Payment, but the Party who sues out the Warrant, or the Steward if he issues it of his own Motion, and with such Knowledge as aforesaid, shall be alone responsible in such Cases for the improper issuing of the Warrant, and for what is done thereunder; and in case the Person against whose Mineral Property such Warrant shall have been issued shall not have any Mineral Property within the Jurisdiction of the said Barmote Courts, or not sufficient to answer the Amount mentioned in such Warrant, after deducting such Fees and Expenses as aforesaid, it shall be lawful for the Person who shall have obtained such Judgment or Order, or in case of a Penalty for the Steward, to recover the Amount or Deficiency by Action of Debt in the County Court, if the Amount of the Debt or Deficiency shall not exceed Fifty Pounds, otherwise in any Superior Court [^{F10}at the Royal Courts of Justice] ; and the Certificate of the said Steward of the Amount of the Debt or Damages, or Money or Costs, or Penalty, or of the Proportion thereof, which has not been recovered under such Warrant, shall be Evidence, but not conclusive Evidence, that the Sum therein mentioned to be not recovered was due and unpaid at the Date of such Certificate; and the Count in the Declaration in any such Action in One of the Superior Courts may be simply to the Effect that the Defendant was indebted to the Plaintiff in a Sum, naming it, by virtue of this Act, and of a Certificate thereunder granted by the Steward of the Barmote Courts of the *High Peak*, which Sum the Defendant had not paid.

Textual Amendments

F10 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 224(1)

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XXXIII Warrants and Executions to be returned to Steward's Office. U.K.

All Warrants issued by the Steward shall be in force for One Calendar Month from the Date thereof, and shall be returned by the Barmaster to the Steward within Six Weeks from the Date thereof, with a Memorandum or Return endorsed thereon, and signed by the Barmaster, stating when it was executed, or if from any Cause the Barmaster shall have been unable to execute it, then stating why it has not been executed, and in the latter Case the Warrant may be renewed and Returns made from Time to Time until it is executed, and every renewed Warrant shall be in force for One Calendar Month from the Date thereof; and every Return to a renewed Warrant shall be made within Six Weeks after the re-issuing of the Warrant, but the Omission to return any such Warrant shall not make any One a Trespasser for having obeyed the same, nor shall it be necessary to state or prove any such Return in order to justify anything done in obedience to the same.

XXXIV Jurors at Small Barmote Courts. U.K.

The Barmaster, with the Assistance of his Deputies, shall every Year make out in Writing a List of not less than Forty-eight Owners or Maintainers of Mines situate within the Jurisdiction of the Barmote Courts, not being Members of the Grand Jury for the Time being, but being resident within the County of *Derby*, and fix the same upon the Door of the Court where the *April* Great Barmote Court is held, and shall afterwards copy such List into a Book, to be called the Jury Book, and to be kept by him, and One Week before any Small Barmote Court the Barmaster shall cause to be summoned Twenty-four Persons named in the said Book to attend at the Time and Place appointed for holding the said Small Barmote Court; and every such Summons shall be in the Form or to the Effect given in the Schedule hereto, and shall be served either personally on such Person, or by leaving it at his usual or last known Place of Abode; and no Person shall be summoned oftener than once in Three Years, unless there shall be a Deficiency in the Number of Jurors, so that a Jury could not be formed without summoning Jurors who have served within Three Years, but no Proceeding shall be held void on the Ground that a Person served on the Jury who was not liable to be summoned.

XXXV Ballot and Challenge of Jurors. U.K.

The Barmaster shall make a List of the Jurors so summoned, together with their Places of Abode and Conditions, and shall permit such List to be inspected by the Plaintiff and Defendant, if they shall require it, and the Barmaster shall cause the Names of the Jurors to be written severally on Slips of Paper and put into a Box, and the Names shall be drawn out of the Box by the Barmaster, and each Party may, until no more than Twelve remain, object to any Person whose Name is drawn out, without assigning any Cause, but so that not more than Six such Objections be made by either Party, and if any Objection is made to the Twelve so remaining it must be stated to, and the Validity or Invalidity thereof decided upon by, the Steward, and the Twelve first Persons to whom no Objection has been made shall be the Jury to be sworn for the Trial; and any Person against whom an Objection has been made and disallowed by the Steward shall be considered as a Person against whom no Objection has been made; and if after drawing out the Names of all the Jurors there shall not appear to be Twelve Persons against whom no Objection has been made, then the Names of all the Jurors against whom Objections have been made shall be returned to the Box, and drawn again, without any further Objection being allowed to any of them, until a sufficient Number be drawn to make a Jury of Twelve, and such Jury of Twelve shall be the Jury

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to be sworn for the Trial to take place at such Small Barmote Court; and the Jury so drawn as aforesaid shall be sworn by the Steward, and shall hear the Evidence of the Witnesses in the Cause, and shall be required to give an unanimous Verdict or Verdicts upon all Matters of Fact at issue in such Trial, which Matters of Fact shall be submitted by the Steward to the Jury for their Determination.

XXXVI Provision in case of more than One Cause. U.K.

The there shall be more than One Cause to be tried at any Small Barmote Court, the Jury sworn for the Trial of the First Cause may and shall, with the Consent of the Parties to the Second or other subsequent Causes, be sworn for and be the Jury for the Trial of such Second and subsequent Causes: Provided always, that any Party to such Second or subsequent Causes, or the Steward, may require a fresh Jury to be drawn.

XXXVI Penalty on Jurors for Nonattendance. U.K.

If any Person liable to serve as a Juryman in the Small Barmote Court shall have been duly summoned to attend as a Juror, and shall not attend in pursuance of such Summons, or being thrice called in Court shall not answer to his Name, or if any such Person being present in Court after having been called shall not duly appear, or, after his Appearance, shall wilfully withdraw himself from the Presence of the said Court, or shall refuse to act as a Juryman, it shall be lawful for the said Steward to impose such Penalty, not exceeding Ten Pounds, upon every such Person so making default as to the said Steward shall seem meet, unless some reasonable Excuse shall be given to the Satisfaction of the said Steward, and the Steward shall fix a Day on or before which, and a Person to whom, such Penalty shall be paid; and if such Penalty shall not be paid within the Time ordered by the said Steward, it shall be lawful for the said Steward to issue his Warrant in the Form herein-after mentioned for the levying thereof, with all the Costs and Charges attending such levying; and such Penalty may be imposed in the Absence of the Party making default, and without calling on him to show Cause why it should not be imposed; and it shall be no Objection to the Execution of such Warrant that the Party had no Notice of such Penalty, but if any Person shall think himself aggrieved by the Imposition of such Penalty or the Execution of such Warrant, the Steward may grant him such Relief as to the Steward may seem just.

XXXVI Penalty on Grand Jurors for Nonattendance. U.K.

If any Person liable to act as a Grand Juryman shall have been duly summoned to attend at the Great Barmote Court, or on any other Occasion on which the Grand Jury are by this Act required to attend, and shall not attend in pursuance of such Summons, or being called shall not answer to his Name, or if any such Person being present after having been called shall not duly appear, or after his Appearance shall wilfully withdraw himself, or shall refuse to act on the Grand Jury, or to perform the Duties required of him, it shall be lawful for the said Steward to impose such Penalty, not exceeding Ten Pounds, upon every such Person so making default, as to the said Steward shall seem meet, unless some reasonable Excuse shall be given to the Satisfaction of the said Steward, and the Steward shall fix a Day on or before which, and a Person to whom, such Penalty shall be paid; and if such Penalty shall not be paid within the Time ordered by the said Steward, it shall be lawful for the said Steward to issue his Warrant in the Form herein-after mentioned for the levying thereof, with all the Costs and Charges attending such levying; and such Penalty may be imposed in the Absence of the Party making default, and without calling on him to show Cause

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why it should not be imposed; and it shall be no Objection to the Execution of such Warrant that the Party had no Notice of such Penalty; but if any Person shall think himself aggrieved by the Imposition of such Penalty or the Execution of such Warrant, the Steward may grant him such Relief as to the Steward may seem just.

XXXIX Exemption from serving on Jury. U.K.

All Persons for the Time being exempted by Law from serving on Juries shall be exempt from serving either on the Grand Jury or on any Jury for the Trial of Causes in the Small Barmote Court, notwithstanding such Persons may in other respects be qualified to serve on such Grand Jury, or on any Jury for the Trial of Causes as aforesaid.

XL Subpœnas. U.K.

The Parties to the Suit or any other Proceeding under this Act may obtain at or from the Office of the Steward Subpœnas to compel the Attendance of Witnesses, with or without a Clause requiring the Production of Books, Deeds, Papers, and Writings in their Possession or Control; and in any such Subpœna any Number of Names may be inserted, and such Subpœnas shall be served upon the Witnesses in like Manner as Subpœnas issuing out of the Superior Courts [^{F11}at the Royal Courts of Justice].

Textual Amendments

F11 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

XLI Execution may be superseded. U.K.

If the Party against whom an Execution shall be issued shall, before an actual Sale of the Property seized, pay or cause to be paid or tendered unto the Barmaster the Sum or Sums of Money ordered to be levied, or such Part thereof as the Person entitled thereto shall agree to accept in full of his Debt or Damages and Costs, together with the Fees hereby allowed, the Execution shall be superseded, and the Property of the said Party shall be discharged and set at liberty.

XLII Barmaster not to be liable. U.K.

No Barmaster or Deputy Barmaster, and no Person acting at the Request and in aid of any Barmaster or Deputy Barmaster, shall be liable to any Action for anything done or authorized by such Barmaster or Deputy Barmaster in obedience or necessary for Obedience to any Writ, Precept, Warrant, or Process signed by the Steward and sealed with the said Seal, although the same be void or irregular or an Excess of Jurisdiction, nor shall any Act done by any such Barmaster, Deputy Barmaster, or other Person, while acting under any such Writ, Precept, Warrant, or Process, make him a Trespasser *ab initio*, though it be not in obedience or not necessary for Obedience to such Writ, Precept, Warrant, or Process, but the Party committing such last-mentioned Act shall be liable to an Action for the same if it be illegal.

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XLIII Steward not to be liable. U.K.

The Steward shall not be liable to any Action for anything done in obedience or necessary for Obedience to any Writ, Warrant, Precept, or Process signed by him, and sealed with the said Seal, if such Writ, Warrant, Precept, or Process be not an Excess of his Jurisdiction.

XLIV Register of Summonses, &c. U.K.

The Steward shall carefully preserve the Books and Accounts mentioned in the Fifth and Fourteenth Sections, and shall also cause a Register of all Summonses, Subp^{nas}, Orders, Judgments, Warrants, Executions, and Returns thereto, and of all Penalties, and of all other Proceedings of the Great and Small Barmote Courts, and of all Bills of Directions, Cross Bills of Directions, Opinions of the Grand Jury, and other Proceedings on Views, to be fairly entered from Time to Time in a Book belonging to the Courts which shall be kept at the Office of the Steward; and such Entries in the said Book, or Copies thereof or of any of them, and also Copies of the Entries in the Books and Accounts mentioned in the Fifth and Fourteenth Sections, or of any Part thereof, and also Copies of the new or additional Customs, Articles, Rules, and Orders mentioned in the Fifty-sixth Section, purporting to bear the Seal of the Court, and purporting to be signed and certified as a true Copy by the Steward, which Copies the Steward is hereby required to furnish to all Persons requiring the same, upon Payment of the Fees herein-after specified, shall at all Times be admitted in all Courts and Places whatsoever as Evidence of such Entries, Articles, Rules, and Orders, and of the Proceedings referred to by such Entry, and of the Regularity of such Proceeding, without any further Proof.

XLV Documents in Custody of Steward to be open to Inspection. U.K.

All Persons shall be at liberty, at convenient Times in the Daytime, to search and examine all Documents in the Custody of the Steward by virtue of this Act, upon Payment of the Fees herein-after specified.

XLVI Interpleader Clause. U.K.

If any Claim shall be made to or in respect of any Mineral Property taken in Execution under the Process of any Great or Small Barmote Court, or in respect of the Proceeds or Value thereof, by any Person not being the Party against whom such Process has issued, it shall be lawful for the Steward, upon the Application of the Officer charged with the Execution of such Process, as well before as after any Action brought against such Officer, to appoint and hold a Small Barmote Court, and to issue a Summons calling before the said Court as well the Party issuing such Process as the Party making such Claim; and upon the issuing of such Summons any Action which shall have been brought in any of Her Majesty's Superior Courts of Record, or any Local or Inferior Court, in respect of such Claim, shall be stayed, and the Court in which such Action shall have been brought, or any Judge thereof, or, if the Action be in any Superior Court [^{F12}at the Royal Courts of Justice], any Judge of any of the other Superior Courts, on Proof of the Issue of such Summons, and that such Mineral Property was so taken in Execution, may order the Party bringing such Action to pay the Costs of all Proceedings had upon such Action after the Issue of such Summons by the Steward; and if either of the Parties so summoned appear, the Steward shall, whether the other Party appear or not, adjudicate upon such Claim, and make such Order between the Parties in respect thereof, and of the Costs of the Proceedings before him,

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and of the Proceedings in the Action prior to such Summons, and of the Payment of Compensation to any Party by any other Party, as to him shall seem fit; and such Order, so far as the same may be for Payment of Money or Costs, shall be enforced in like Manner as any Order made in any Suit brought in the Small Barmote Court, and, so far as such Order be not for the Payment of Money or Costs, Disobedience to the same may be punished in manner following; that is to say, any Person considering himself aggrieved by such Disobedience may complain to the Steward, who may thereupon summon the disobedient Party before him, and may, if he thinks the Complaint proved, and whether the Party complained of shall appear or not, order the Party complained of to pay to the complaining Party such Sum of Money as he may think a sufficient Compensation, with or without the Costs of the Application, at his Discretion, and if he thinks the Complaint not proved he may make an Order dismissing the same Complaint, with or without Costs, at his Discretion, and the Order which the Steward shall make in the Premises may also be enforced in like Manner as any Order made in the Small Barmote Court.

Textual Amendments

F12 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

XLVII Penalties. **U.K.**

All Penalties imposed by virtue of this Act (except the Penalties imposed upon the Barmaster, and which are otherwise provided for,) shall be recovered by levying the same under a Warrant of the Steward upon the Mineral Property of the Person upon whom such Penalty shall be imposed, which shall be within the Jurisdiction of the Barmote Courts; and if the Barmaster shall make a Return to the Steward that there is no Mineral Property within such Jurisdiction, or not sufficient to raise the whole of the Penalty and the Fees and Expenses allowed for the Execution of the Warrant, then such Penalty, or so much thereof as the Produce of the Sale of such Mineral Property shall not, after paying the Fees and Expenses allowed for the Execution of the Warrant, be sufficient to satisfy, shall be recovered by Action of Debt in the County Court, such Action to be brought in the Name of the Steward; and a Certificate signed by him, and sealed with the said Seal, certifying the Imposition of such Penalty and the Amount thereof, or so much thereof as shall not have been satisfied by such Execution, shall be Evidence, but not conclusive Evidence, that the Sum therein mentioned not to be recovered was due and unpaid at the Date of the Certificate.

XLVIII Forms of Proceedings. **U.K.**

The Proceedings of the Barmote Courts shall be in the Forms given in the Second Schedule annexed to this Act, or to the like Effect, and in any Proceeding not thereby provided for it shall be lawful for the said Steward to adopt such Form as he shall think fit and applicable to such Proceeding.

XLIX Fees. **U.K.**

The Fees and Payments which shall be paid, had, and taken by the Steward, Head Barmaster, Deputy Barmasters, Grand Jury, [^{F13}solicitors] , and other Persons, shall be such as are contained in the Third and Fourth Schedules to this Act, and no other

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Fee, Gratuity, or Reward whatever shall be demanded, had, or taken by any of the said Persons on any Pretence whatever.

Textual Amendments

F13 Word substituted by virtue of [Solicitors Act 1974 \(c. 47\)](#), s. 89(6)

L Application of Penalties. U.K.

An Account shall be kept by the Steward of all Penalties imposed upon any Person under the Authority of this Act, and such Penalties shall, except in Cases where it is by this Act otherwise provided, be received by or on account of the said Steward, and shall be paid by the said Steward, when received, as to One Moiety thereof to Her Majesty and Her Successors in right of Her said Duchy of *Lancaster*, and as to the other Moiety thereof to the Lessee for the Time being of the Duties of Lot and Cope, if there shall be any such Lessee, and if there shall be no such Lessee then the whole of such Penalties shall be paid to Her Majesty and Her Successors in right of Her said Duchy of *Lancaster*; and if any Action or other Proceedings other than an Execution under the Warrant of the said Steward shall be necessary for the Recovery of any Penalty, such Action or other Proceedings shall be taken in the Name of the Steward.

LI Limitation. U.K.

For the Protection of Persons acting in the Execution of this Act, it is hereby declared, that all Actions and Prosecutions to be commenced against any Person for anything done in pursuance of this Act shall be laid and tried in the County where the Fact was committed, and shall be commenced within Six Calendar Months after the Fact committed, and not afterwards or otherwise; and Notice in Writing of such Action, and of the Cause thereof, shall be given to the Defendant One Calendar Month at least before the Commencement of the Action; and no Plaintiff shall recover in any such Action if Tender of sufficient Amends shall have been made before such Action brought, or if after Action brought a sufficient Sum of Money shall have been paid into Court, with Costs, by or on behalf of the Defendant; and in any such Action the Defendant may not only plead the Tender or Payment into Court, as the Case may be, but may also plead any other Plea or Pleas in bar, or a general Demurrer.

LII Removal of Proceedings. U.K.

No Proceedings in the said Courts or either of them, or before the Steward or Barmaster, shall be removed into any other Court by Certiorari or otherwise, except in the Cases herein provided for.

LIII Costs. U.K.

In any Action brought under the Provisions of this Act in the County Court, or in any of the Superior Courts, the Plaintiff and Defendant shall respectively be entitled to recover Costs in the same Cases and to the same Extent as they would be entitled if the Action were a common Action of Debt on Simple Contract in the County Court or in any of the Superior Courts respectively.

Changes to legislation: There are currently no known outstanding effects for the High Peak Mining Customs and Mineral Courts Act 1851. (See end of Document for details)

LIV Proceedings pending. U.K.

Nothing in this Act contained shall affect any Action, Suit, or other Proceeding now pending in any Court of Law or Equity, but such Action, Suit, or other Proceeding shall be dealt with and determined as if this Act had not been passed.

LV Parties may proceed in any other Court than Small Barmote Court. U.K.

Nothing in this Act contained shall preclude any Person from proceeding in any other Court, having Jurisdiction therein, in respect of any Matter hereby made triable in the Small Barmote Court.

LVI Power to make new Rules. U.K.

It shall be lawful for the Steward and Grand Jury at any Great Barmote Court to make such new and additional Customs, Articles, Rules, and Orders, as to them shall seem expedient for the better Regulation of the working and carrying on of the Mines within the District under the Provisions of this Act, and for the Guidance and Protection of the Mines in reference to the working and carrying on of Mines within the said District, and also for regulating the Practice and Proceedings of the Great and Small Barmote Courts, or of any Views or other Proceedings, and for the Execution of any Process of such Courts, and in relation to any of the Provisions of this Act, or of the Articles and Customs hereby established; and all such new and additional Customs, Articles, Rules, and Orders as aforesaid shall be certified under the Hand of the Steward and Seal of the said Court to the Chancellor for the Time being of Her Majesty's Duchy of *Lancaster*, the same having been previously submitted to the Lessee, if any, for the Time being, of the Duties of Lot and Cope, and approved of in Writing by him; and the same shall be published for Three Weeks consecutively in some Newspaper printed in the County of *Derby*; and such Chancellor may, after such Publication, either allow or disallow such View and additional Customs, Articles, Rules, and Orders, or any of them; and such of the new and additional Customs, Articles, Rules, and Orders as shall be so allowed by such Chancellor shall forthwith, after the Approval thereof, be sealed with the Seal of the said Duchy of *Lancaster*, and laid before both Houses of Parliament, (if Parliament be then sitting, or, if Parliament be not sitting, then within Five Days after the next Meeting thereof,) and no such new or additional Custom, Article, Rule, or Order shall have effect until Six Weeks after the same shall have been so laid before both Houses of Parliament; and any new or additional Custom, Article, Rule, or Order so allowed and laid before Parliament as aforesaid shall, from and after the Expiration of such Period of Six Weeks, be of the same Force and Effect as if the same had been enacted by Authority of Parliament, unless the same shall by Vote or Resolution of either House of Parliament be objected to; and such new and additional Customs, Articles, Rules, and Orders, shall be carefully preserved by the Steward: Provided always, that such new and additional Customs, Articles, Rules, and Orders shall not in any way affect the Rights and Interests of Owners or Occupiers of Land.

LVII Saving Rights of the Crown. U.K.

Provided always, That, except as is herein provided, nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Queen's most Excellent Majesty, Her Heirs and Successors, either in right of Her Crown or in right of Her Duchy of *Lancaster*.

Changes to legislation:

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