



Mines and Quarries Act 1954

1954 CHAPTER 70

PART XIV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

152 Offences

- (1) In the event of a contravention, in relation to a mine, of—
- (a) a provision of this Act, of an order made thereunder or of regulations, not being a provision which expressly provides that a person is to be guilty of an offence; or
 - (b) a direction, prohibition, restriction or requirement given or imposed by a notice served under or by virtue of this Act by an inspector; or
 - (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by the Minister or an inspector;

each of the following persons shall, subject to the following provisions of this Act, be guilty of an offence, namely, the owner of the mine, any person to whom written instructions have been given by the owner in pursuance of section one of this Act specifying as, or including amongst, the matters with respect to which that person is charged with securing the fulfilment in relation to the mine of statutory responsibilities of the owner, matters of the class to which the provision, direction, prohibition, restriction, requirement or condition relates, the manager of the mine, any person who is for the time being treated for the purposes of this Act as the manager, every under-manager of the mine and any person who is for the time being treated for the purposes of this Act as an under-manager thereof.

- (2) In the event of a contravention, in relation to a quarry, of—
- (a) a provision of this Act or of regulations, not being a provision which expressly provides that a person is to be guilty of an offence; or
 - (b) a direction, prohibition, restriction or requirement given or imposed by a notice served under or by virtue of this Act by an inspector ; or
 - (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by the Minister or an inspector;

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each of the following persons shall, subject to the following provisions of this Act, be guilty of an offence, namely, the owner of the quarry, any person to whom written instructions have been given by the owner in pursuance of section one of this Act specifying as, or including amongst, the matters with respect to which that person is charged with securing the fulfilment in relation to the quarry of statutory responsibilities of the owner, matters of the class to which the provision, direction, prohibition, restriction, requirement or condition relates, every manager of the quarry and any person who is for the time being treated for the purposes of this Act as a manager thereof:

Provided that—

- (i) neither a manager of a quarry who is not the sole manager thereof nor a person who is for the time being treated for the purposes of this Act as such a manager shall, by virtue of this subsection, be guilty of an offence by reason of any such contravention which took place in, or in relation to, a part of the quarry to which his jurisdiction did not, at the time of the contravention, extend; and
 - (ii) neither a sole nor any other manager of a quarry nor a person who is for the time being treated for the purposes of this Act as a manager thereof shall, by virtue of this subsection, be guilty of an offence which consists of such a contravention as aforesaid with regard to a matter responsibility for which is duly reserved to the owner in pursuance of section one hundred of this Act.
- (3) In the event of a contravention, in relation to a mine, by a person other than one mentioned in subsection (1) of this section, of such a provision as is mentioned in paragraph (a) of that subsection, being a provision which expressly imposes on that person or on persons of a class to which he belongs a duty or requirement or expressly prohibits him or persons of a class to which he belongs or all persons from doing a specified act, the person who contravened that provision, as well as the persons mentioned in the said subsection (1), shall be guilty of an offence, and in the event of a contravention, in relation to a quarry, by a person other than one mentioned in subsection (2) of this section, of such a provision as is mentioned in paragraph (a) of that subsection, being a provision which expressly imposes on that person or on persons of a class to which he belongs a duty or requirement or expressly prohibits him or persons of a class to which he belongs or all persons from doing a specified act, the person who contravened that provision, as well as the persons mentioned in the said subsection (2), shall be guilty of an offence.
- (4) Neither the manager of a mine as such, nor a manager of a quarry as such, nor a person who is for the time being treated for the purposes of this Act as the manager of a mine or a manager of a quarry, nor an under-manager of a mine, nor a person who is for the time being treated for the purposes of this Act as such an under-manager shall, by virtue of subsection (1) or (2) of this section, be guilty of an offence by reason of a contravention by the owner of the mine or quarry of—
- (a) any provision of this Act, of an order made thereunder or of regulations, being a provision which expressly imposes on the owner of the mine or quarry a duty or requirement or a prohibition ; or
 - (b) any prohibition, restriction or requirement which, by virtue of a notice served under or by virtue of this Act by an inspector, is expressly imposed on the owner of the mine or quarry;
- or of a contravention of section three or one hundred and one of this Act.

153 Accessories

Without prejudice to the operation—

- (a) as respects England and Wales, of section eight of the Accessories and Abettors Act, 1861, and section thirty-five of the Magistrates' Courts Act, 1952 ; and
 - (b) as respects Scotland, of section sixty-one of the Criminal Procedure (Scotland) Act, 1887, and section two of the Summary Jurisdiction (Scotland) Act, 1954 ;
- any person who induces or procures, or consents to or connives at, the commission of an offence under this Act, shall be guilty of an offence.

154 Supplementary provisions as to offences

- (1) If any persons are employed at a mine or quarry otherwise than in accordance with the provisions of this Act, orders made thereunder and regulations, there shall be deemed to be a separate contravention in respect of each person so employed.
- (2) If a person acts as manager of a mine in contravention of the provisions of subsection (1) of section five of this Act, of any condition attached to an approval granted under that subsection or of a direction given by a notice served under subsection (2) of that section, there shall be deemed to be a separate contravention in relation to each mine as manager of which he acts.

155 Penalty for offences for which no express penalty is provided

- (1) A person guilty of an offence under this Act for which no express penalty is provided shall be liable—
 - (a) if he is the owner of a mine or quarry, a person to whom instructions have been given by the owner of a mine or quarry in pursuance of section one of this Act, the manager of a mine or a manager of a quarry, a person who is for the time being treated for the purposes of this Act as the manager of a mine or a manager of a quarry, an under-manager of a mine, a person who is for the time being treated for the purposes of this Act as such an under-manager or the surveyor for a mine, to a fine not exceeding two hundred pounds ; and
 - (b) if not, to a fine not exceeding twenty pounds ;and, if the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding five pounds for each day on which the contravention is so continued.
- (2) Where the court by which a person is convicted of any such offence as aforesaid is satisfied that the contravention in respect of which he is convicted—
 - (a) was likely to cause the death of, or serious bodily injury to, a person employed at the mine or quarry in relation to which the contravention occurred or a dangerous accident; or
 - (b) was likely to endanger the safety of any such person ;the court may impose upon the person convicted (either in addition to, or in substitution for, a fine) imprisonment for a term not exceeding three months.

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156 Defence available to person charged with offence not committed personally

In any proceedings under this Act which, by virtue of subsection (1) or (2) of section one hundred and fifty-two of this Act, are taken against a person in respect of the contravention by a person other than himself of—

- (a) a provision of the Act, of an order made thereunder or of regulations, being a provision which expressly imposes on that other person or on persons of a class to which, at the time of the contravention, he belonged, a duty or requirement or expressly prohibits him or persons of such a class or all persons from doing a specified act; or
- (b) a prohibition, restriction or requirement which by virtue of a notice served under or by virtue of this Act by an inspector is expressly imposed on that other person;

it shall be a defence for the person charged to prove that he used all due diligence to secure compliance with the provision, prohibition, restriction or requirement, as the case may be.

157 Persons not to be under liability for contraventions which it was impracticable to avoid or prevent

It shall be a defence in any legal proceedings to recover damages and in any prosecution, in so far as the proceedings or prosecution are or is based on an allegation of a contravention, in relation to a mine or quarry, of—

- (a) a provision of this Act, of an order made thereunder or of regulations (not being a provision which expressly provides that a person is to be guilty of an offence); or
- (b) a direction, prohibition, restriction, or requirement given or imposed by a notice served under or by virtue of this Act by an inspector; or
- (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by the Minister or an inspector;

to prove that it was impracticable to avoid or prevent the contravention.

158 Special defence available to mine under-managers with limited jurisdiction

- (1) In any proceedings which, by virtue of subsection (1) of section one hundred and fifty-two of this Act are taken, in respect of such a contravention as is mentioned in that subsection against an under-manager of a mine acting as such, being an under-manager whose jurisdiction is limited to part only of the mine, it shall be a defence for him to prove that the contravention did not take place in, or in relation to, the part of the mine to which his jurisdiction was limited and that no act or omission of his caused or contributed to the contravention.
- (2) The foregoing subsection shall apply to a person who is for the time being treated for the purposes of this Act as an under-manager of a mine, being a person whose jurisdiction is limited to part only of the mine, as it applies to an under-manager whose jurisdiction is so limited.

159 Liability of owners for breaches of statutory duty by their servants

For the removal of doubts it is hereby declared that the owner of a mine or quarry is not absolved from liability to pay damages in respect of a contravention, in relation to the mine or quarry, by a person employed by him of—

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- (a) a provision of this Act, of an order made thereunder or of regulations; or
- (b) a prohibition, restriction or requirement imposed by a notice served under or by virtue of this Act by an inspector;

by reason only that the provision contravened was one which expressly imposed on that person or on persons of a class to which, at the time of the contravention, he belonged, a duty or requirement or expressly prohibited that person, or persons of such a class or all persons from doing a specified act or, as the case may be, that the prohibition, restriction or requirement was expressly imposed on that person or that that person was, in pursuance of this Act or regulations, appointed by a person other than the owner.

160 Liability of parents for unlawful employment of young persons

If a young person is employed at a mine or quarry in contravention of the provisions of this Act, the parent of the young person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty pounds, unless it appears to the court that the contravention occurred without the consent, connivance or wilful default of the parent.

161 Forgery of certificates, false statements, and c

(1) If a person—

- (a) with intent to deceive, forges or uses or lends to, or allows to be used by, another person a certificate granted under or by virtue of this Act by the Minister, or makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive; or
- (b) for the purpose of obtaining for himself or another person—
 - (i) the grant of any such certificate or the issue of a duplicate thereof or the restoration of any such certificate or a shortening of any period for which any such certificate is suspended ; or
 - (ii) employment as manager or under-manager of a mine or as surveyor for a mine, or employment in an office the appointment to which is required by or by virtue of this Act to be made by the manager of a mine; or
 - (iii) employment as manager of a quarry or employment in an office the appointment to which is required by regulations having effect by virtue of section one hundred and six of this Act to be made by the owner or a manager of a quarry,

makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which he knows to be false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular; or

- (c) wilfully makes a false entry in any register, book, notice or other document required by or by virtue of this Act to be kept, served or given or, with intent to deceive, makes use of any such entry which he knows to be false; or
- (d) in purported compliance with a requirement imposed by or by virtue of this Act to furnish any returns, statistics or other information or to inform a person of the substance of any instructions, makes a statement which he knows to be

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false in a material particular or recklessly makes a statement which is false in a material particular; or

- (e) discloses any return, statistics or other information in contravention of this Act; or
- (f) on being required under paragraph (f) of subsection (1) of section one hundred and forty-five of this Act to mark on a plan the state of any workings, marks it thereon in a way which he knows to be false in a material particular or recklessly marks it thereon in a way which is false in a material particular; or
- (g) falsely pretends to be an inspector ;

he shall be guilty of an offence, and liable—

- (i) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both ;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds or to both.

- (2) In this section the expression "forges" has, in the application thereof to England and Wales, the same meaning as in the Forgery Act, 1913.

162 Removal or defacement of notices, and c

If, without reasonable excuse, a person removes, injures or defaces—

- (a) a notice which is for the time being posted at a mine or quarry in pursuance of any provision of this Act or regulations; or
- (b) a document which, in pursuance of section one hundred and thirty-five of this Act, is for the time being provided in accommodation provided in pursuance of that section;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds.

163 Prosecution of offences

- (1) Any offence under this Act with respect to the trial of which no express provision is made by this Act may be tried either summarily or upon indictment.
- (2) A magistrates' court shall, in any proceedings for an offence under this Act, if required by either party, cause a note of the evidence to be taken and preserved.
- (3) Where, in consequence of an accident or other occurrence at a mine or quarry, a special report is made in pursuance of this Act by an inspector, a report is made by a person appointed under this Act to hold a public inquiry or a coroner's inquest is held, and it appears from the report or from the proceedings at the inquest that, at or before the time of the accident or other occurrence, there was a contravention, in relation to the mine or quarry, of—
 - (a) a provision of this Act, of an order made thereunder or of regulations; or
 - (b) a direction, prohibition, restriction or requirement given or imposed by a notice served under or by virtue of this Act by an inspector; or
 - (c) a condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act by the Minister or an inspector ;

summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months after the making of the report or the conclusion of the inquest.

- (4) Summary proceedings against any person liable to be proceeded against in respect of a contravention of provisions of regulations having effect by virtue of subsection (1) of section seventeen or subsection (1) of section twenty of this Act may be commenced at any time within three months from the date on which evidence sufficient in the opinion of the Minister to justify a prosecution for the contravention comes to the knowledge of the Minister.

For the purposes of this subsection, a certificate of the Minister as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

- (5) Where an offence is committed under this Act by reason of a failure to give a notice, enter a report or do any other thing at or within a time specified by this Act, an order made thereunder, regulations or a notice served under or by virtue of this Act by an inspector, the offence shall be deemed to continue until the notice is given, the report entered or the other thing done, as the case may be.
- (6) In the application of this section to Scotland, for any reference to a coroner's inquest there shall be substituted a reference to an inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895, and for any reference to evidence sufficient to justify a prosecution there shall be substituted a reference to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of prosecution.

164 Restriction on institution of certain proceedings

No proceedings for an offence under this Act shall, in England or Wales, be instituted against any such person as is mentioned in paragraph (a) of subsection (1) of section one hundred and fifty-five of this Act except by an inspector or by or with the consent of the Minister or the Attorney General.

165 Duty to report results of proceedings against persons employed at mines or quarries

- (1) An owner or manager of a mine or quarry by whom are instituted proceedings against a person employed at the mine or quarry for an offence under this Act shall, within twenty-one days after the conclusion of the trial of that person for that offence, give to the inspector for the district notice of the result of the trial and shall also, within twenty-one days after the conclusion of any proceedings by way of appeal arising out of the trial, give to the inspector for the district notice of the result of those proceedings.
- (2) For the purposes of this section the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal.

166 Liability of parents for unlawful employment of children

For the purposes of any proceedings under this Act in respect of the employment of children in contravention of section fourteen of the Education Act, 1918, section seventeen of the Education (Scotland) Act, 1918, or section one of the Employment of Women, Young Persons and Children Act, 1920 (being enactments which prohibit the employment of children in factories, mines and quarries and, so far as they relate to mines and quarries, are incorporated with this Act), the references in section one hundred and sixty of this Act to a young person shall be construed as including

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references to a child within the meaning of the said section fourteen, the said section seventeen or the said section one, as the case may be.

167 Application of fines

Any sum paid to the Secretary of State in pursuance of section twenty-seven of the Justices of the Peace Act, 1949, in respect of a fine recovered under this Act shall be deemed to be Exchequer moneys within the meaning of that section and shall be paid by the Secretary of State into the Exchequer.