



Railways Clauses Consolidation Act 1845

1845 CHAPTER 20 8 and 9 Vict

^{XI} *Working of Mines [Editorial note: ss. 77-85 as originally enacted follow]*

Editorial Information

X1 Ss. 77-85 as originally enacted are set out below

And with respect to mines lying under or near the railway, be it enacted as follows:

77 *Company not to be entitled to minerals.*

The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Modifications etc. (not altering text)

C1 Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. [14\(3\)\(4\)](#)

78 *Mines lying near the railway not to be worked if the company willing to purchase them.*

If the owner, lessee, or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose; and if it appear to the

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company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, [F1 the question shall be referred to and determined by the Lands Tribunal] .

Textual Amendments

- F1** Words substituted, in section as originally enacted and as incorporated in any Act, by [Compulsory Purchase Act 1965 \(c. 56\), s. 39\(3\), Sch. 7](#)

Modifications etc. (not altering text)

- C2** S. 78 modified by [Settled Land Act 1925 \(c. 18\), s. 58\(3\)](#) and [Universities and Colleges Estates Act 1925 \(c. 24\), s. 17\(3\)](#)
- C3** Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981 \(c. 64, SIF 123:3\), s. 14\(3\)\(4\)](#)

79 ***If company unwilling to purchase, owner may work the mines.***

If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expence; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expence occasioned thereby, by action in any of the superior courts.

Modifications etc. (not altering text)

- C4** Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981 \(c. 64, SIF 123:3\), s. 14\(3\)\(4\)](#)

80 ***Mining communications.***

If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall

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be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

Modifications etc. (not altering text)

- C5 Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. 14(3)(4)

81 Company to make compensation for injury done to mines;

The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway all such additional expences and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expences, the same shall be settled by arbitration.

Modifications etc. (not altering text)

- C6 Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. 14(3)(4)

82 and also for any airway or other work made necessary by the railway.

If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damages sustained by him.

Modifications etc. (not altering text)

- C7 Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. 14(3)(4)

83 Power to company to enter and inspect the working of mines.

For better ascertaining whether any such mines are being worked or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery

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belonging to the owner, lessee, or occupier of such mines and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Modifications etc. (not altering text)

- C8** Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. [14\(3\)\(4\)](#)

84 *Penalty for refusal to inspect.*

If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

Modifications etc. (not altering text)

- C9** Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. [14\(3\)\(4\)](#)

85 *If mines improperly worked, the company may require means to be adopted for the safety of the railway.*

If it appear that any such mines have been worked contrary to the provisions of this or the special Act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expence thereof from such owner, lessee, or occupier by action in any of the superior courts.

Modifications etc. (not altering text)

- C10** Power to incorporate s. 77 and ss. 78–85 as originally enacted, conferred by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. [14\(3\)\(4\)](#)

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