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STATUTORY INSTRUMENTS

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**1993 No. 1897**

**The Management and Administration of  
Safety and Health at Mines Regulations 1993**

**PART VIII**

**MISCELLANEOUS AND GENERAL**

**Exemptions**

**38.**—(1) Subject to paragraph (3), the Executive may, by a certificate in writing, exempt any mine, or part of a mine or class of mines or any person or class of persons from all or any of the prohibitions and requirements of these Regulations, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) Where a mine is, for the time being, solely used for a purpose other than for, or in connection with, the getting of minerals or ensuring the safety of another mine, subject to paragraph (3), the Executive may, by a certificate in writing, exempt that mine from all or any of the prohibitions and requirements imposed by or under—

- (a) the 1954 Act;
- (b) orders and regulations made under or having effect as if made under that Act; and
- (c) health and safety regulations which expressly apply to all mines, to any class of mine to which the mine belongs, or the mine,

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(3) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

**Disapplication of section 157 of the 1954 Act**

**39.** Section 157 of the 1954 Act (which provides a defence in legal proceedings and prosecutions in certain circumstances) shall not apply in relation to any prosecutions or other legal proceedings based on an allegation of a contravention of a requirement or prohibition imposed by or under these Regulations.

### **Disapplication of the Factories Act 1961 to mine premises**

**40.**—(1) Subject to paragraphs (2) and (3), none of the provisions of the Factories Act 1961(1) (“the 1961 Act”) shall apply to any premises forming part of a mine.

(2) Paragraph (1) shall not apply in a case where the mine is, for the time being, used for a purpose other than for, or in connection with, the getting of minerals or ensuring the safety of another mine and the Executive has issued an exemption certificate under regulation 38(2) exempting the mine from the relevant statutory provisions which expressly apply to all mines, to any class of mine to which the mine belongs or to the mine.

(3) Those provisions of the 1961 Act which are applied by section 127 of that Act to building operations and works of engineering construction shall apply to premises forming part of a mine except to—

- (a) building operations undertaken below ground; and
- (b) works of engineering construction whether undertaken above or below ground,

and in this paragraph the terms “building operation” and “work of engineering construction” have the same meanings as in section 176(1) of the 1961 Act.

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(1) 1961 c. 34, relevant amending instrument is S.I. 1974/1941.