1970. No. 124 **[C]**

MINES

References

RULES, DATED 1ST JUNE 1970, MADE BY THE MINISTRY OF COMMERCE UNDER SECTION 146(9) OF THE MINES ACT (NORTHERN IRELAND) 1969.

The Ministry of Commerce in exercise of the powers conferred on it by section 146(9) of the Mines Act (Northern Ireland) 1969(a) and of all other powers enabling it in that behalf, hereby makes the following rules:—

Citation

1. These rules may be cited as the Mines (References) Rules (Northern Ireland) 1970.

Interpretation

2. In these rules the following expressions have the meanings hereby respectively assigned to them, that is to say—

"the Act" means the Mines Act (Northern Ireland) 1969;

"assessor" has the meaning assigned thereto in section 146(3) of the Act;

"counter-notice" has the meaning assigned thereto in rule 3;

"the Ministry" means the Ministry of Commerce;

"objection statement" has the meaning assigned thereto in rule 5;

"objector" has the meaning assigned thereto in rule 3;

"parties to the reference" means, in relation to any reference, the Ministry and the person or persons who served the relevant counter-notice or counter-notices (as the case may be);

"referee" means, in relation to any reference, the person or persons to whom a notice stands referred in pursuance of a nomination made under sub-section (2) of section 146 of the Act;

"reference" means a reference under section 146 of the Act;

"reply" has the meaning assigned thereto in rule 6.

Form and service of counter-notice

3. Every counter-notice served by a person (hereinafter referred to as an "objector") under sub-section (2) of section 146 of the Act (being a counter-notice demanding a reference upon a notice served by the Ministry on him) shall—

(*a*) be in the form specified in Schedule 1 to these rules or as near thereto as circumstances will admit; and

(*b*) be served in duplicate on the Ministry within the period of twenty-one days from the date of service of that notice;

and in these rules "counter-notice" means a counter-notice which complies with the requirements of this rule.

(a) 1969. c. 6 (N.I.).

Application for selection of referee

4. When a counter-notice is served on it, the Ministry shall, as soon as may be and in any event within the period of twenty-one days from the date of service thereof, request the Lord Chief Justice, after such consultation as he may think fit with the President of the Institution of Mining Engineers, to nominate a referee and forward with the said request a copy of that counter-notice and a copy of the notice upon which a reference is demanded.

Statement of grounds of objection

5.—(1) Every objector shall serve in duplicate upon the Ministry a statement specifying every ground of objection to the notice upon which a reference is demanded, being a relevant ground of objection for the purposes of subsection (5) of the said section 146 of the Act, and the facts and contentions relied on in support of that ground (that statement being hereinafter referred to as "the objection statement").

(2) Every objection statement shall be served upon the Ministry within the period of twenty-one days from the date of service of the relevant notice or within such longer period (if any) as may be agreed or ordered under rule 16.

(3) In any case in which the Ministry is of opinion that the service of an objection statement is unnecessary for the purposes of the reference it shall serve on the objector a notice to that effect and the preceding provisions of this rule shall not apply to that reference.

Reply to objection statement

6.—(1) The Ministry when in pursuance of paragraph (2) of rule 5 an objection statement has been served on it shall serve upon the objector a statement (hereinafter referred to as "the reply") specifying the facts and contentions relied on in rebuttal of the objection statement.

(2) Every reply shall be served upon the objector as soon as may be after service of the relevant objection statement and in any event either within the period of twenty-one days from the date of that service or within such longer period (if any) as may be agreed or ordered under rule 16.

Appointment of referee and notification to parties to reference

7. In every case in which the Lord Chief Justice nominates two or more persons to be referee on a reference he shall appoint one of them to preside over the reference.

8. As soon as may be after the appointment of a referee on any reference the Lord Chief Justice shall notify the Ministry of the referee's name and address and the Ministry shall in turn forthwith notify the person or persons who served the relevant counter-notice or counter-notices (as the case may be).

Furnishing of documents to the referee

9. Forthwith after—

(*a*) the service of a notice in pursuance of paragraph (3) of rule 5 or the service of the reply in pursuance of paragraph (2) of rule 6; or

(*b*) receipt of the notification of the name and address of the referee;

(whichever of (*a*) and (*b*) is the later) the Ministry shall send to the referee a copy of the notice served by it in pursuance of paragraph (3) of rule 5 or a copy of the objection statement and a copy of the reply, as the case may be.

Hearing of reference

10.—(1) Without prejudice to the provisions of paragraph (*a*) of rule 13, as soon as may be after rule 9 has been complied with the referee shall determine a date, time and place for the hearing of the reference and notify the parties to the reference of the date, time and place so determined and may notify, or require any party to the reference to notify, in such manner as he thinks fit, the date, time and place so determined to any person appearing to him to be affected by the notice upon which a reference has been demanded or any association or body representative of any such person.

(2) Forthwith after any party to the reference, being the owner or manager of the relevant mine, has been notified in pursuance of paragraph (1) of this rule, that party shall take such steps as may be necessary to secure that notice of the date, time and place so notified is kept posted at that mine at all times at which persons are employed thereat during the period until the quashing or confirmation of the notice upon which a reference has been demanded, in such characters and in such positions as to be easily seen and read by the persons employed thereat, and in the form specified in Schedule 2 to these rules or as near thereto as circumstances will admit.

11. No objector shall (except in a case in which a notice under paragraph (3) of rule 5 has been served on him), on the hearing of a reference, be entitled without the consent of the referee to raise, or adduce evidence with respect to, any ground of objection to the relevant notice other than a ground of objection specified in the relevant objection statement.

12. In every case to which the Lord Chief Justice has nominated two or more persons to be referee on a reference—

(*a*) every decision on the reference of a majority of those persons present and voting shall be the decision of the referee;

(*b*) in any case in which on the reference the votes of those persons present and voting are equally divided, the person presiding over the reference shall have a second or casting vote.

Powers of the referee

13. The referee shall, for the purposes of any reference, have power—

(*a*) to dispose of any outstanding matter on the reference and in particular any matter in any case in which any party to the reference has failed to comply with any of the preceding rules or in which any party to the reference fails to appear at the hearing;

(*b*) to enter and inspect any mine affected by the relevant notice;

(*c*) (so far as appears to him to be reasonable having regard to the desirability of quashing or confirming the relevant notice as soon as may be) to adjourn the reference from time to time and from place to place; and

(*d*) subject to the provisions of the Act and of these rules, to regulate the procedure on the reference.

Payment of costs

14. The referee may make such orders as he thinks fit respecting the payment of the costs of the reference (including the payment of his remuneration and allowances and of the remuneration and allowances of any assessor or assessors appointed by him).

Remuneration of the referee

15. The amount of the remuneration and allowances to be paid to a referee and to any assessor or assessors upon a reference shall be determined by the Ministry with the approval of the Ministry of Finance.

Extension of time

16.—(1) In any case in which provision is made in these rules for such extension of any period of time as may be agreed or ordered under this rule, the period specified in that provision may, upon the application of any party to the reference, be extended—

(*a*) by agreement in writing by the other party or parties (as the case may be) to the reference; or

(*b*) in default of such agreement—

(i) (in any case in which application for the extension is made before the appointment of a referee) by order of the Lord Chief Justice;

(ii) (in any other case) by order of the referee.

(2) Every application for an extension of time shall be made in writing by the person seeking the extension to the person or persons empowered at the time of the making of that application to agree to or order that extension, and any such agreement or order may be reached or made although the application for the same is not made until after the expiration of the period of time in relation to which an extension is sought.

Sealed with the Official Seal of the Ministry of Commerce for Northern Ireland this 1st day of June 1970 in the presence of

(L.S.)

J. H. Armstrong,
Assistant Secretary.

SCHEDULE 1

RULE 3

MINES ACT (NORTHERN IRELAND) 1969

THE MINES (REFERENCES) RULES (NORTHERN IRELAND) 1970

COUNTER-NOTICE

DEMANDING A REFERENCE UPON A NOTICE

IN THE MATTER OF
THE MINES ACT (NORTHERN IRELAND) 1969, AND IN THE MATTER of a question
BETWEEN (*Name of objector*) ..... Objector

and

The Ministry of Commerce

To the Ministry

TAKE NOTICE that the above-named objector being { the owner / the manager } * of ..... mine in pursuance of sub-section (2) of section 146 of the Mines Act (Northern Ireland) 1969 hereby demands a reference upon a notice relating to that mine served under .....†

upon him by the Ministry on the ..... day of ..... 19...., being a notice to which apply the provisions of Part XIII of the said Act with respect to references upon notices.

The address for service of the objector is .....

Dated ..... 19.....

(Signed) .....

*Delete as inapplicable.

†Insert number of the section of the Act or title of the regulations and number of the regulation (as the case may be) under which notice was served.

SCHEDULE 2

RULE 10

MINES ACT (NORTHERN IRELAND) 1969

THE MINES (REFERENCES) RULES (NORTHERN IRELAND) 1970

NOTICE

OF REFERENCE UPON A NOTICE SERVED BY THE MINISTRY OF COMMERCE

IN THE MATTER OF
THE MINES ACT (NORTHERN IRELAND) 1969, AND IN THE MATTER of a question
BETWEEN (*Name of objector*) ..... Objector

and

The Ministry of Commerce

TAKE NOTICE—

(1) THAT the above-named objector being { the owner / the manager } * of .... mine in pursuance of subsection (2) of section 146 of the Mines Act (Northern Ireland) 1969, has demanded a reference upon a notice relating to that mine served under ....† upon him by the Ministry on the ..... day of ..... 19...., being a notice to which apply the provisions of Part XIII of the said Act with respect to references upon notices;

(2) THAT the name(s) and address(es) of the person(s) selected to be referee on the reference { is / are } .....

(3) THAT the referee has determined that the reference shall be heard on the ..... day of ..... 19...., at (*insert time*) ..... at (*insert place*) .....

‡(4) THAT the objection statement and the reply thereto relating to the notice upon which a reference has been demanded may be inspected at ....

Dated ..... 19..... (Signed) .....

TO ALL PERSONS AFFECTED BY THE ABOVE-MENTIONED NOTICE

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*Delete as inapplicable.

†Insert number of the secion of the Act or title of the regulations and number of the regulation (as the case may be) under which notice was served.

‡Omit paragraph in any case in which a notice has been served under paragraph (3) of Rule 5.

EXPLANATORY NOTE

(This note is not part of the Rules but is intended to indicate their general purport.)

These rules regulate the procedure to be followed in every case in which a reference under section 146 of the Act is demanded upon a notice served by the Ministry on the owner or manager of a mine, being a notice to which the provisions of Part XIII of the Act with respect to references apply. The rules also specify the powers of a referee, make provision with respect to costs of such references and specify the form of counter-notices and the period within which such notices must be served.