



# Mineral Development Act (Northern Ireland) 1969

## 1969 CHAPTER 35

### MISCELLANEOUS

#### 47<sup>F1</sup> **Entry on land.**

- (1) Where the Ministry or any other person intends to enter on or into any land in the exercise of any right conferred—
- (a) by or under section 11(1) or section 22(1) or (2), or
  - (b) by a mining facilities order or a mining facilities permit,
- the Ministry or, as the case may be, that other person shall serve on the occupier of the land and on the owner, if the owner is known,—
- (i) at least three days notice of the intention, where the entry is for the purpose of any prospecting operations which do not involve the breaking of ground to a depth of more than one foot;
  - (ii) at least fourteen days notice of the intention, where the entry is for the purpose of any prospecting operations which involve the breaking of ground to a depth of more than one foot;
  - (iii) at least four weeks notice of the intention in any other case,
- or such lesser notice as may be agreed upon between the person intending to enter and the occupier or, as the case may be, the owner.
- (2) In this section “prospecting operations” means—
- (a) any operations authorised by or under section 11(1), or
  - (b) any operations proposed to be conducted in the exercise of ancillary rights acquired under section 23(2) or authorised to be used by a mining facilities permit granted under section 26(2).

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Mineral Development Act (Northern Ireland) 1969. (See end of Document for details)*

**F1** 1964 c.28 (NI)

#### **48 Offences.**

- (1) A person shall be guilty of an offence if, without lawful authority, he knowingly either works or does anything for the purpose of working any mines and minerals vested in the Ministry.
- (2) A person shall be guilty of an offence if he wilfully obstructs any other person in the exercise of any right conferred—
  - (a) by or under section 11(1) or section 22(1) or (2), or
  - (b) by a mining facilities order or a mining facilities permit.
- (3) A person who is guilty of an offence by reason of a contravention of any provision of subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding<sup>[F2]</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months or to both, and where the contravention is repeated or continued after conviction to a further fine not exceeding ten pounds for every day, subsequent to the day on which he is first convicted of an offence under that subsection, during which the contravention is so repeated or continued.
- (4) In a prosecution for an offence under subsection (1) a court of summary jurisdiction shall have jurisdiction to try the offence notwithstanding that a question of title is raised.
- (5) No proceedings for an offence under subsection (1) or (2) may be instituted except—
  - (a) by the Ministry, or
  - (b) by, or with the consent of, the Attorney General.

**F2** 1984 NI 3

#### **49 Regulations.**

- (1) The Ministry may make regulations prescribing—
  - (a) the manner in which applications may be made to the Ministry for prospecting licences or for grants of mineral rights (whether by way of sale, mining lease, mining licence or mining permission) or for mining facilities permits;
  - (b) the information required in support of any such application;
  - (c) the fees, if any, to be paid on any such application;
  - (d) the conditions to be complied with by applicants;
  - (e) the terms and conditions to be incorporated in any such licence, lease or permission or on which any such sale may be made;
  - (f) model clauses which may be incorporated (directly or by reference) in any such licence, lease or permission;
  - (g) such incidental or supplementary matters as are necessary or expedient.
- (2) Any regulations prescribing fees under subsection (1)( c) shall be made with the approval of the Ministry of Finance.
- (3) The Public Offices Fees Act 1879 shall not apply to any prescribed fees.

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(4) Regulations shall be subject to negative resolution.

**50 Annual statement and register of notices.**

- (1) The Ministry shall cause to be prepared and laid before Parliament an annual statement containing for the year to which it relates particulars of all prospecting licences, sales of estates in mines and minerals, mining leases, mining licences, mining permissions and mining facilities permits granted by the Ministry in that year.
- (2) The Ministry shall prepare a register containing particulars of all notices published by the Ministry under section 11(3), 20(2), 31(1) or 37(1), or paragraph 1, 2, 3 or 10 of Schedule 2, and the register—
  - (a) shall be open for inspection by any person at all reasonable hours, and
  - (b) with respect to any such notice, shall be maintained by the Ministry until the expiration of a period of five years from the last date of publication of that notice.

**51 Account of receipts and expenditure under Act.**

- (1) The Ministry shall, in respect of the period beginning with the commencement of section 1 and ending on 31st March 1971 and in respect of each financial year thereafter, prepare an account, in such form and in such manner as the Ministry of Finance may direct, of the moneys received and expended by the Ministry under this Act and the Act of 1959 during that period or, as the case may be, that financial year.
- (2) The Ministry shall transmit to the Comptroller and Auditor-General a copy of every account prepared under subsection (1), and the Comptroller and Auditor-General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before both Houses of Parliament.

**52 Financial provisions.**

Any expenses of the Ministry under this Act may be defrayed out of moneys provided by Parliament, or, to the extent that the Ministry of Finance so directs, by means of sums charged on or issued out of the Consolidated Fund.

**53 Power of educational institutions to facilitate the working of mines and minerals.**

- (1) The trustees or governing body of any educational institution shall have power to do anything necessary or expedient for facilitating the working of mines and minerals in any land which is the property of that institution, if apart from the provisions of this section they would not have power to do so.
- (2) Without prejudice to section 54, where an educational institution receives or has received any grant or other sum from the Ministry of Education in connection with any land, the power conferred by subsection (1) shall not be exercised in relation to that land otherwise than with the written consent of that Ministry.

**54 Repayment of grants, etc., in certain cases.**

- (1) Where any grant or other sum has been paid by a government department to any local authority, public body or educational institution in connection with—

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- (a) land which or any part of which is, or ancillary rights over which or any part of which are, acquired under section 23; or
  - (b) land which is or forms part of land which has suffered damage for which compensation is recoverable under section 38; or
  - (c) land which is damaged by the working of mines and minerals (other than scheduled substances) therein which are the property of any such institution; subject to subsection (2) that department may determine that the amount of that grant or sum, or such lesser amount as the department thinks fit, shall be payable to the department by that authority or body or the trustees or governing body of that institution.
- (2) The amount determined to be payable under subsection (1) shall not exceed the amount by which the consideration or compensation payable in respect of the land or ancillary rights or the compensation recoverable for the damage or, as the case may be, the consideration payable to the institution in contemplation of the damage exceeds the consideration or compensation, if any, which would have been so payable or recoverable if the amount of the grant or other sum had not been expended in connection with acquiring or laying out the land or erecting buildings or executing works thereon; and where the consideration or compensation is payable otherwise than in the form of a lump sum, the amount for the time being recoverable from any person by virtue of a determination under subsection (1) shall not exceed the amount for the time being receivable by that person on account of the consideration or compensation.
- (3) Any question arising as to the amount secondly mentioned in subsection (2) shall, in default of agreement, be referred to and determined by the Lands Tribunal.
- (4) Any amount which is payable to a government department under subsection (1) shall be recoverable summarily by that department as a debt.
- (5) Without prejudice to subsection (4), on the application of a government department to whom any amount is payable by virtue of subsection (1), the Ministry before paying any consideration or compensation for land or ancillary rights, or compensation under section 38, may deduct, or the Lands Tribunal on awarding any such compensation may order the deduction, therefrom of that amount, and the payment to that department of that amount shall operate as a discharge of the Ministry's liability or, as the case may be, the compensation fund to the extent of the payment.
- (6) Without prejudice to subsection (4) or (5), any amount which is payable to a government department under subsection (1) may be recovered by deduction from any grant or other sum payable out of moneys provided by Parliament or by any government department to the person from whom the amount is due, and that grant or other sum shall be abated accordingly.

## **55 Meaning of “stone, gravel, sand or clay” in s.13(3) of the Irish Land Act 1903.**

- (1) Subject to subsection (2), the reference in paragraph (c) of the first proviso to section 13(3) of the Irish Land Act 1903<sup>MI</sup> to any stone, gravel, sand or clay shall be construed as referring only to the scheduled substances, and accordingly where immediately before the commencement of this section any rights to or in relation to scheduled substances of any description or mines of such substances in any land (other than land in the ownership of the Ministry) were vested in the Ministry by virtue of section 6 of, and Schedule 1 to, the Act of 1959, those rights shall, by virtue of this subsection and without further assurance, vest in the persons owning that land for the like estates as those persons may at the commencement of this section have in that land.

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- (2) Except as is provided in subsection (3), nothing in subsection (1) shall affect any disposition of rights to or in relation to scheduled substances of any description, or mines of such substances, in any land where the disposition was made by the Irish Land Commission, the Land Purchase Commission, Northern Ireland, the Ministry of Finance or the Ministry before the commencement of this section.
- (3) Where a disposition to which subsection (2) applies was in force in relation to scheduled substances of any description in any land immediately before the commencement of this section and continues in force thereafter, it shall from that commencement, subject to subsection (4), have effect as if it had been made by the persons who are the owners of the land, and accordingly,—
- (a) subsection (1) to the extent that it would operate, but for the provisions of subsection (2), to vest any rights to or in relation to substances of that description, or mines of such substances, in any person shall so operate subject to the terms and conditions of the disposition and the provisions of subsection (4);
  - (b) except for the purposes of subsection (4), the rights or obligations of the Ministry under or in consequence of the disposition shall be enforceable by or against the persons owning the land according to their respective estates and not by or against the Ministry;
  - (c) subject to paragraph ( b ), the rights or obligations of any other party to the disposition shall continue to be enforceable by or against that party;
- but the persons owning the land shall not be entitled by virtue of this subsection—
- (i) to enforce any rights under the disposition until they have produced to the other party evidence of their title, or
  - (ii) to receive any rent, royalties or other sums under the disposition except on demand.
- (4) Notwithstanding anything in subsection (3), the person entitled to the benefit of a disposition to which that subsection applies shall continue to pay to the Ministry an amount equal to twenty-five per cent. of any rent, royalties or other sums which would have been so payable under the disposition if this section had not been passed, and—
- (a) the payment of that amount in accordance with this subsection shall discharge that person from his obligation, by virtue of subsection (3), to pay to any other person so much of such rent, royalties or other sums as is equivalent to that amount;
  - (b) <sup>F3</sup>the Ministry shall pay that amount to the former vendors of the land in relation to which the disposition was made; and
  - (c) the payment of that amount under paragraph ( b ) shall be in lieu of and shall operate to discharge all liability of the Ministry on foot of the percentage required by the second proviso to section 13(3) of the Irish Land Act 1903 to be paid to those former vendors.

**F3** 1970 (c.24)

**Marginal Citations**

**M1** 1903 c. 37

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## 56 Definitions of “minerals”, “mine” and “ancillary rights” .

(1) In this Act “minerals” includes all mineral bearing and other substances (not being the soil at the surface of the ground and its vegetation or peat or water) naturally occurring in land, whether obtainable by underground or by surface working; but does not include petroleum, except that—

(a) ...<sup>F4</sup> in sections 53, 54 ...<sup>F4</sup> and 60 [<sup>F5</sup> any reference to minerals], includes a reference to petroleum (and, accordingly, any corresponding reference to mines includes a reference to petroleum wells), and

*Para.(b) rep. by 1970 c.18 (NI)*

(c) in paragraph 5 of Schedule 3 any reference to mineral prospecting or development work includes a reference to petroleum prospecting or development work.

(2) In this Act “mine” means an excavation or system of excavations, whether underground or on the surface, made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, and without prejudice to the generality of the foregoing provisions of this subsection includes any cubic space underground formerly occupied by minerals.

(3)<sup>F6</sup> In this Act “ancillary rights” means any facilities, rights or privileges required in connection with the working of mines and minerals to enable them to be conveniently and properly worked, including, without prejudice to the generality of the foregoing provisions of this subsection, the following rights, that is to say,—

(a) a right to let down the surface, including a right to let down superincumbent or adjacent strata up to and including the surface;

(b) a right to remove, temporarily or permanently, superincumbent or adjacent strata and surface for the purposes of open cast mining;

(c) a right of air-way, shaft-way, or surface or underground way-leave, or other right for the purposes of access to or conveyance of minerals or machinery or the ventilation or drainage or working of mines;

(d) a right—

(i) to construct, operate and maintain roads and railways for the conveyance of minerals from any mine to any existing road or railway system, or

(ii) to construct, operate and maintain pipe-lines for the conveyance of minerals (including minerals held in solution or suspension) from any mine to any place,

and for any such purpose to use and occupy land and to exercise any right in or over land or water or in or over any highway;

(e) a right to use and occupy the surface of land for—

(i) the storage of fuel for the purposes of, or for the storage of minerals gotten from, any mine,

(ii) the erection of crushing and dressing mills, washeries, coke ovens, railways, aerial rope ways, aerial tramways, or by-product or other works, or

(iii) the erection of offices or dwellings for persons employed in connection with the working of minerals or with any such works as aforesaid;

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- (f) a right to a supply of water, stone or other substances in connection with the working of mines and minerals;
- (g) a right to dispose in a particular manner of water or other liquid matter, or matter which flows when wet, obtained from mines or any by-product works;
- (h) a right to dispose in a particular manner of waste products obtained in connection with the working of minerals;
- (i) a right to dam or divert any river or watercourse, including an artificial watercourse;
- (j) a right to divert sewers, watermains and pipes;
- (k) a right to divert a railway, highway or private way, and to substitute for an existing bridge another bridge on a different site;
- (l) a right to demolish buildings which impede the proper working of any minerals;
- (m) a right to use land for the creation, preservation or restoration of natural amenity.

**F4** 1970 c.18 (NI)

**F5** 1970 c.18 (NI)

**F6** 1964 c.28 (NI)

## 57 General interpretation provisions.

(1) In this Act—

“acquired mining facility” has the meaning assigned to it by section 23(3);

“the Act of 1959” has the meaning assigned to it by section 3;

*Definition rep. by 1971 c.17 (NI)*

“the compensation fund” has the meaning assigned to it by paragraph 4(2) of Schedule 2;

“the first appointed day”<sup>F7</sup> means such day as the Minister may by order appoint for the coming into operation of the provisions to which section 63(3) applies;

“former vendors”, in relation to any land, means the persons for the time being entitled under the second proviso to section 13(3) of the Irish Land Act 1903 to receive in respect of minerals in that land the percentage provided for in that proviso;

“government department” means a department of the Government of Northern Ireland and in sections 11(2), 22(3), 24(5) and 60 also includes a department of the Government of the United Kingdom;

[<sup>F8</sup> “historic monument” has the same meaning as in the Historic Monuments Act (Northern Ireland) 1971 ;]

“Lands Tribunal” means the Lands Tribunal for Northern Ireland;

“local authority” means the council of a county or county borough or county district;

“mining facilities order” has the meaning assigned to it by section 23(3);

“mining facilities permit” has the meaning assigned to it by section 26(3);

“mining lease” has the meaning assigned to it by section 17(1);

“mining licence” has the meaning assigned to it by section 18;

“mining permission” has the meaning assigned to it by section 19(1);

“notice” means notice in writing;

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“the Minister” means the Minister of Commerce;

“the Ministry” has the meaning assigned to it by section 1;

“petroleum” has the same meaning as in the Petroleum (Production) Act (Northern Ireland) 1964 ;

“prescribed” means prescribed by regulations;

“prospecting licence” has the meaning assigned to it by section 11(1)( b);

“public body” means any public authority, board, commissioners or public body of any kind constituted by or under any transferred provision, whether of a general or a special nature;

“regulations” means regulations made by the Ministry under this Act;

“rent” includes any periodical payment in the nature of rent;

“scheduled substances” has the meaning assigned to it by section 2;

“searching for”, in relation to any mines and minerals, includes ascertaining the character, extent or value of those mines and minerals;

“the second appointed day”<sup>F9</sup> means such day as the Minister may by order appoint for the coming into operation of the provisions to which section 63(4) applies; and, without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954 , different days may be so appointed for the purposes of this Act, except Schedule 3, and for the purposes of the Petroleum Production Act (Northern Ireland) 1964 as amended by Schedule 3;

“transferred provision” has the meaning assigned to it by section 1( g) of the Interpretation Act (Northern Ireland) 1954;

“working”, in relation to any mines and minerals, (without prejudice to subsection (3)) includes searching for those mines and minerals, and in relation to any minerals includes, digging, mining, getting, raising, taking, carrying away, treating and converting those minerals.

(2) In this Act—

- (a) any reference to minerals in any land includes a reference to minerals on or under the land;
- (b) any reference to mines and minerals or an estate in mines and minerals includes a reference to mines alone or an estate in mines alone, or, as the circumstances may require, to minerals alone or an estate in minerals alone;
- (c) any reference to mines and minerals vested in the Ministry (except a reference to mines and minerals so vested by virtue of section 1(1)) includes a reference to minerals the exclusive right of mining and taking and digging and searching for which is vested in the Ministry by virtue of any transferred provision, and to mines of such minerals;
- (d) subject to section 35(3) any reference to mines and minerals vested in the Ministry by virtue of section 1(1), or of this Act, includes a reference to any mines and minerals with respect to which section 1(1) is deemed to have had effect by virtue of section 9(1);
- (e) any reference to the land to which a mining facilities order or proposed order relates includes a reference to—
  - (i) any land an estate in which is or is proposed to be acquired by such an order, and
  - (ii) any land over which ancillary rights are or are proposed to be so acquired.



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- (3) In relation to any cubic space underground formerly occupied by minerals, references in this Act to working mines include references to utilising that space for the storage of any substance without the intention to store permanently; and, in relation to such a space, in section 56(3)—
- (a) any reference to minerals includes a reference to such a substance and any reference to working minerals includes a reference to introducing such a substance into, storing it in or removing it from that space;
  - (b) in paragraph ( *d* ) the references to the construction, operation and maintaining of roads, railways or pipelines for the conveyance of minerals from any mine include references to such construction, operation or maintaining for the conveyance of any such substance to or from that space; and
  - (c) in paragraph ( *e* )(i) the reference to the storage of minerals gotten from any mine includes a reference to the storage of any such substance before its introduction into, or after its removal from, that space.

<b>F7</b>	SRO (NI) 1969/360
<b>F8</b>	1971 c.17 (NI)
<b>F9</b>	Not appointed at 31.3.1981

## **58 Savings.**

- (1) Except as is expressly provided in this Act, nothing in this Act shall affect the operation of the Petroleum (Production) Act (Northern Ireland) 1964 .
- (2) Any power to do anything which is conferred by a lease, licence, permission or permit granted under this Act—
- (a) shall be subject to any transferred provision to the extent that it prohibits, and
  - (b) shall not be exercised otherwise than in accordance with any transferred provision which restricts, regulates or otherwise applies to,
- the doing of that thing; and for the purposes of this subsection any reference to a transferred provision includes a reference to any prohibition, requirement, direction, permission or consent imposed or given under a transferred provision.
- (3) Except where a dwelling-house or its curtilage or some part thereof is acquired under this Act, nothing in this Act shall authorise any person to enter any dwelling-house or its curtilage without the consent of the owner or occupier of that dwelling-house.

*Subs.(4) spent*

*S.59 rep. by 1970 c.18 (NI)*

## **60 Application of Planning Orders to certain mining development on Crown property.**

For the removal of doubt it is hereby declared that the<sup>F10</sup> Planning (Northern Ireland) Order 1991 applies] to any development of land which is or is proposed to be carried out by any person other than a government department in connection with working mines and minerals notwithstanding that the land is owned or occupied by a government department.

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**F10** 1991 NI 11

**61 Act to bind Crown.**

Except as otherwise expressly stated in this Act, this Act shall be binding on the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

*S.62(1), with Schedule 3, effects amendments; subs.(2), with Schedule 4, effects repeals*

**63 Short title and commencement.**

- (1) This Act may be cited as the Mineral Development Act (Northern Ireland) 1969.
- (2) The following provisions of this Act, that is to say,—
  - (a) the provisions of sections 1 to 10 and Schedule 1; sections 16 to 22 so far as applicable for the purposes of any disposition to which paragraph ( *b* ) or ( *d* ) of section 21(1) applies; sections 35, 36, 38, 39, 45 to 49, and 52 to 55; section 56(1), except paragraph ( *c* ) thereof; sections 56(2) and 58 to 61; section 62(1) so far as applicable to paragraphs 1 and 2 of Schedule 3, and those paragraphs; section 62(2) and Schedule 4 to the extent that they repeal section 8 of the Act of 1959; and this section, and
  - (b) so much of section 57 as is applicable for the interpretation of those provisions,
 shall come into operation on the passing of this Act.
- (3) The remaining provisions of this Act, except those mentioned in subsection (4), shall come into operation on the first appointed day. <sup>F11</sup>
- (4) The provisions of this Act relating to the compulsory acquisition of land or ancillary rights shall come into operation on the second appointed day. <sup>F12</sup>
- (5) The provisions mentioned in subsection (4) do not include any provision of Schedule 2 as applied and modified by section 42 or by virtue of paragraph 11 of Schedule 3.
- (6) An order appointing the second appointed day shall not be made unless a draft thereof has been approved by resolution of each House of Parliament.

**F11** SRO (NI) 1969/360

**F12** Not appointed at 31.3.1981

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

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