



# Mineral Development Act (Northern Ireland) 1969

## 1969 CHAPTER 35

### COMPENSATION FOR MINES AND MINERALS

#### **29<sup>F1</sup> Compensation for mines and minerals vested in the Ministry under section 1.**

- (1) Without prejudice to the provisions of section 35, compensation shall be payable by the Ministry in accordance with the succeeding provisions of this section, and not otherwise, in respect of mines and minerals vested in the Ministry by virtue of section 1(1).
- (2) Compensation shall be payable under this section in any of the following events, that is to say,—
  - (a) on the sale by the Ministry of an estate in any such mines and minerals, or
  - (b) on the grant by the Ministry of a mining lease, mining licence or mining permission with respect to any such mines and minerals, or
  - (c) on the disposal by the Ministry of any such minerals which have been worked by the Ministry under section 15,where the sale, grant or disposal is made otherwise than for no or a nominal consideration; and such compensation shall be payable out of the net profits accruing to the Ministry in consequence of that event.
- (3) Subject to subsections (4) and (5) compensation under this section in respect of mines and minerals of any description in any land—
  - (a) where the Ministry sells an estate in the mines and minerals, shall be in the form of a sum equivalent to so much of the net profits accruing from the sale as is attributable to the mines and minerals of that description in that land;
  - (b) where the Ministry grants a mining lease, mining licence or mining permission, shall be in the form of sums equivalent to so much of the net

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amount of any fine, rent or royalties thereunder as is attributable to the mines and minerals of that description in that land; and

- (c) where minerals worked by the Ministry are disposed of by the Ministry, shall be in the form of sums equivalent to the sums which would have been payable under paragraph ( b) if the minerals had been worked by a lessee under a mining lease.
- (4) Where the payments made by the lessee under a mining lease are stated in the lease to be fixed at a reduced amount in consideration of any advantages such as are mentioned in section 17(3),—
- (a) subsection (3)( b) shall have effect as if the reference therein to the net amount of any fine, rent or royalties under the lease were a reference to the amount which would have taken the place of that net amount if the payments had not been so fixed, and
  - (b) accordingly, subsection (2) shall not have effect so as to restrict the fund out of which compensation is payable to the net profits accruing to the Ministry in consequence of the grant of the lease,
- and so much of the compensation as represents the excess of the second amount mentioned in paragraph ( a) over the first amount so mentioned shall be defrayed as expenses of the Ministry.
- (5) Where any compensation has been paid under the succeeding provisions of this Act for the loss of any dead rent or other fixed annual payment which was payable in respect of mines and minerals vested in the Ministry by virtue of section 1(1), any compensation which would otherwise be payable under this section in respect of those mines and minerals shall be reduced by the amount of the first-mentioned compensation or such lesser amount, if any, as may be appropriate.
- (6) In this section any reference to the net profits, or the net amount of any fine, rent or royalties, accruing to the Ministry in consequence of any event is a reference to the amount of any profit, fine, rent or royalty so accruing less all costs and expenses incurred by the Ministry in connection with or in consequence of that event (which may include so much of the administrative expenses of the Ministry as are apportionable to that event); and for the purposes of this subsection a certificate of the Ministry as to the amount of those costs and expenses shall be prima facie evidence thereof.
- (7) The costs and expenses referred to in subsection (6) do not include—
- (a) any costs such as are mentioned in subsection (6) of section 20 to the extent that they are defrayed by sums paid under that subsection;
  - (b) any costs in connection with a claim for compensation under this section which are directed by the Lands Tribunal to be paid by the Ministry; or
  - (c) any costs which are paid by the Ministry by virtue of paragraph 12(2) of Schedule 2 as applied by section 42.

F1 1970 (c.24)
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### **30 Persons entitled to compensation under section 29.**

- (1) The right to compensation under section 29 in respect of mines and minerals of any description in any land shall be deemed to have vested in the persons who, immediately before the commencement of section 1(1), were entitled to any estate in the mines

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and minerals of that description in that land and may be disposed of or shall devolve accordingly.

- (2) Where, by virtue of section 9(1), section 1(1) is deemed to have had effect with respect to any mines and minerals so as to vest them in the Ministry, subsection (1) shall have effect as if the reference therein to the persons who, immediately before the commencement of section 1(1), were entitled to any estate in the mines and minerals were a reference to the persons who, immediately before section 1(1) was first deemed to have had effect with respect to those mines and minerals, were entitled to such an estate.

### **31 Claims for compensation under section 29.**

- (1) When it appears to the Ministry that compensation may become payable under section 29 in respect of mines and minerals of any description in any land in consequence of an event such as is mentioned in subsection (2) of that section, the Ministry, unless it is aware of the names of all persons who are entitled to the compensation, shall publish, in two successive weeks, in the Belfast Gazette and in one or more than one newspaper circulating in the locality where the land is situated, a notice—
- (a) stating that such compensation may be payable;
  - (b) mentioning the land in relation to which rights to compensation may arise;
  - (c) naming a place or places (including at least one place in the locality) where maps identifying the land are available for inspection at all reasonable hours; and
  - (d) indicating that any person who, having regard to the provisions of section 30, is entitled to compensation in respect of the mines and minerals of that description in that land or any part of it may submit his claim for such compensation to the Ministry within a period of one year from the date of the first publication of the notice.
- (2) On the expiration of the period mentioned in paragraph (d) of subsection (1), or (if all relevant claims appear to the Ministry to have been submitted) of such lesser period as appears to the Ministry to be appropriate, the Ministry shall proceed to consider the claims submitted as mentioned in that paragraph.
- (3) Where the Ministry is satisfied that good reasons exist for the failure of any person to submit a claim for compensation under section 29 before the expiration of the period mentioned in subsection (1)(d), his claim may be accepted after the expiration of that period.

### **32 Determination of attribution of net profit**

- (1) Where in consequence of any event such as is mentioned in subsection (2) of section 29 (in this section referred to as “the relevant event”) affecting any land compensation is payable to any persons under that section in respect of mines and minerals of any description in that land, there shall, after the expiration of the period mentioned in subsection (1)(d) of section 31 or (if either no notice has been published under section 31 or such a notice has been published and all relevant claims appear to the Ministry to have been submitted) of such lesser period as appears to the Ministry to be appropriate, in default of agreement be referred to the Lands Tribunal any question arising as to the extent to which the net profits accruing to the Ministry in consequence of that event are attributable—

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- (a) to the mines and minerals of that description in the part of the land in relation to which each claim for such compensation (including any late claim already accepted under section 31(3)) has been submitted, and
- (b) to the mines and minerals of that description in any part or parts of the land in relation to which no such claim has been submitted;

and the Lands Tribunal shall have power to determine any such question.

(2) In making a determination under subsection (1) as to the extent to which the net profits accruing from the working of minerals of any description are attributable to the mines and minerals of that description in any part or parts of any land, the Lands Tribunal shall have regard to all relevant factors, including, in particular,—

- (a) any estimate of the relative potential value of minerals of that description in each such part of that land which was or might have been made immediately before the relevant event or, where minerals worked by the Ministry on any occasion have been disposed of by the Ministry, immediately before minerals of that description were first so worked on that occasion;
- (b) any development plans or proposals affecting any such part or parts of the land which have been formulated by the person working or intending to work the minerals (including, in particular, any plans or proposals as to the location of services such as are mentioned in paragraphs (c) to (h) of section 56(3));
- (c) any findings, subsequent to the relevant event or, as the case may be, the time when minerals of that description were first worked as mentioned in paragraph (a), as to the location of minerals of that description in any such part or parts of the land.

### **33 Determination of title to compensation under section 29.**

- (1) Any question arising as to the entitlement of any person to the compensation payable under section 29 which is attributable to mines and minerals of any description in, or in any part of, any land shall, in default of agreement, be referred to and determined by the Lands Tribunal.
- (2) Where the circumstances permit, a reference to the Lands Tribunal under this section and a reference under section 32 may, with the consent of the Tribunal, be made in a single reference.

### **34 Determination of certain other questions in relation to compensation under section 29.**

Any question arising as to—

- (a) the sums which would have been payable under paragraph (b) of subsection (3) of section 29 in circumstances such as are mentioned in paragraph (c) of that subsection; or
- (b) the amount which would have taken the place of the net amount of any fine, rent or royalties under a mining lease, as mentioned in subsection (4)(a) of that section, if the payments made by the lessee under the lease had not been fixed at a reduced amount under section 17(3); or
- (c) the appropriate amount of any reduction in compensation under section 29 which falls to be made by virtue of subsection (5) of that section; or
- (d) the existence of good reasons such as are mentioned in section 31(3), where the Ministry has not accepted a late claim,

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shall also, in default of agreement, be referred to and determined by the Lands Tribunal.

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