



# Mines (Working Facilities and Support) Act 1966

## 1966 CHAPTER 4

### *General*

#### **8 Compensation**

- (1) Where a right is granted under section 1 of this Act, or any restriction is imposed under section 7 of this Act, the court may determine the amount and nature of compensation or consideration to be paid or given and the persons to whom it is to be paid or given, either at the time when it determines whether the right should be granted or the restrictions imposed or at any subsequent time.
- (2) The compensation or consideration in respect of any right, including a right to enforce restrictions, shall be assessed by the court on the basis of what would be fair and reasonable between a willing grantor and a willing grantee, having regard to the conditions subject to which the right is or is to be granted.
- (3) The court may, if it thinks fit—
  - (a) where the amount of the compensation or consideration has been determined by the court, order the payment into court of the whole or any part of it;
  - (b) pending the determination of the amount of the compensation or consideration, order the payment into court of such sum on account as the court thinks fit.
- (4) Where the person to whom any compensation or consideration is payable cannot be found or ascertained the compensation or consideration shall be paid into court.
- (5) The court may impose as a condition on the grant of any right or the imposition of any restriction that any compensation or consideration payable in respect thereof shall be paid, or that security to the satisfaction of the court for the payment thereof shall be given, before the right is commenced to be exercised, or the restriction is enforced.
- (6) References in this section to payment into court are—

- (a) in the application of this Act to England and Wales, references to payment into the Supreme Court, and
- (b) in the application of this Act to Scotland, references to consignment in the Court of Session.

**9 Duty of Ministers and National Coal Board to assist the court, and right to appear in court proceedings**

The Minister of Power and any other Government Department and the National Coal Board shall give to the court such assistance as the court may require for the purposes of their duties under this Act, and shall be entitled to appear and be heard at any proceedings on an application before the court under this Act.

**10 Effect of grant of right**

A right granted under this Act shall not confer on the person to whom it is granted any greater or other power than if the right had been granted by a person legally entitled to grant the right, or relieve the grantee from any obligation or liability to which he would have been subject had the right been granted by such a person.

**11 Provisions as to tenants for life, etc.**

An order under this Act may confer rights on a tenant for life or on any person having the statutory powers of a tenant for life, or any trustee, personal representative, or other person in a fiduciary position, and, where any such rights are so conferred upon any such person, the rights shall be deemed to form part of the property subject to the settlement or the estate of the deceased person or the property subject to the trust, as the case may be.

**12 Saving of rights under Railways Clauses Acts, etc.**

(1) Nothing in this Act shall prejudicially affect—

- (a) the right under the Railways Clauses Consolidation Act 1845, or any Act modifying that Act, including Part II of the Mines (Working Facilities and Support) Act 1923, or any other Act, whether public general, or local and private, of any railway or canal company, local authority or other statutory body to acquire minerals for the purposes of support, or
- (b) any rights or interests in minerals which may have been acquired by any such company, authority or body, or
- (c) any right of support from minerals to which any such company, authority or body may be entitled, or
- (d) any right empowering any such company, authority or body to acquire the rights to which they are entitled directly or indirectly under any special Act or order relating to the company, authority or body or any statute incorporated therewith,

or shall confer on any such company, authority or body the right to acquire under this Act any rights to prohibit or restrict the working of minerals.

(2) For the purposes of Part II of the Transport Act 1947 and Part II of the Transport Act 1962, this section shall be deemed to have been enacted before those Acts.

- (3) In the application of this section to Scotland for the reference to the Railways Clauses Consolidation Act 1845 there shall be substituted a reference to the Railways Clauses Consolidation (Scotland) Act 1845.

### **13 Transitory provisions**

In the Table in section 1 of this Act paragraph 1(2) and paragraph 2—

- (a) shall apply to the granting of a right required by reason of the subsistence either of a retained interest (as defined by section 5 of the Coal Act 1938) or of any interest arising under a freeholder's lease (as defined by section 4 of the Coal Act 1943),
- (b) shall not apply to minerals within section 3(4)(b) of the Coal Act 1938 (minerals (other than coal) comprised in a coal mining lease subsisting at the valuation date).

### **14 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- " ancillary right " has the meaning given by section 2 of this Act;
  - " coal " means bituminous coal, cannel coal and anthracite ;
  - " coal-mining purpose " has the meaning given by section 44(1) of the Coal Act 1938 :
  - " copyhold land " has the same meaning as in the Law of Property Act 1922;
  - " court "—
    - (a) in the application of this Act to England and Wales, means the High Court, and
    - (b) in the application of this Act to Scotland, means the Court of Session ;
  - " lease " includes underlease or other tenancy and a licence, and " lessor" and " lessee" have corresponding meanings;
  - " minerals " includes all minerals and substances in or under land obtainable by underground or by surface working, and references to working minerals include references to working, carrying away, treating and converting minerals;
  - " the Minister " means the Minister of Power ;
  - " surface " in relation to land includes any buildings, works or things erected, constructed or growing thereon, and " right to let down the surface " includes a right to let down superincumbent or adjacent strata up to and including the surface.
- (2) For the purposes of this Act a person whose concurrence is necessary for the exercise of a right shall be deemed to be a person having power to grant the right, or a person from whom the right must be obtained as the case may be.
- (3) References in this Act to a right to work minerals include references to any right granted under paragraph 1 or paragraph 3(2) in the Table in section 1 of this Act.

### **15 Repeals and savings**

- (1) The Acts mentioned in Schedule 1 to this Act shall be repealed to the extent specified in the third column of that Schedule.

- (2) Subsection (1) above shall not affect—
- (a) any exercise of the court's jurisdiction, or any exercise (before the coming into force of the Railway and Canal Commission (Abolition) Act 1949) of the jurisdiction of the Railway and Canal Commission,
  - (b) any pending application for the grant of a right or the imposition of restrictions or any pending proceedings in the court, or
  - (c) any other thing done before the coming into force of the repeals under the enactments repealed by this section,
- and any thing done under any of those enactments before their repeal shall have effect as if done under the corresponding enactment in this Act.
- (3) The repeal of section 22(1) of the Coal Act 1938 shall not affect the saving in that subsection for the jurisdiction as respects a working facilities order subsisting on the vesting date mentioned in that subsection.
- (4) Any enactment or instrument or document referring to any of the enactments repealed by this section shall be construed as referring to the corresponding enactment in this Act.
- (5) Without prejudice to the generality of subsection (4) above, the Acts and instruments mentioned in Schedule 2 to this Act shall be amended in accordance with that Schedule.
- (6) The mention of particular matters in this section shall be without prejudice to the provisions of section 38 of the Interpretation Act 1889 as regards the effect of repeals.

## **16 Short title, extent and commencement**

- (1) This Act may be cited as the Mines (Working Facilities and Support) Act 1966.
- (2) This Act shall not extend to Northern Ireland.
- (3) This Act shall come into force at the expiration of a period of one month beginning on the date on which it is passed.