



# Mines (Working Facilities And Support) Act 1966

## 1966 CHAPTER 4

### *Working facilities*

#### **1 Grant of working facilities.**

The court may, subject to and in accordance with this Act, confer any rights described in the Table below.

#### <sup>[F1]</sup> TABLE

##### **metallic ores, etc.**

Paragraph 1 of Table.

(1) This paragraph applies to any minerals other than <sup>F2</sup> . . . peat cut for purposes other than sale.

(2) A right to search for or work any minerals to which this paragraph applies may be conferred on any person (exercisable either by himself or through a lessee) .

(3) Where the working of any minerals to which this paragraph applies, or the working of any such minerals in the most efficient and economical manner, is impeded by any restrictions, terms or conditions contained in a mining lease, or otherwise binding on the person entitled to work the minerals, a right may be conferred to work the minerals freed wholly or partially from the restrictions or conditions, or to work the minerals on other terms and conditions.]

##### **All minerals other than coal**

Paragraph 2 of Table.

(1) This paragraph applies to any minerals other than coal.

(2) Where there is danger of any such minerals being left permanently unworked—

(a) by reason of the minerals being comprised in or lying under land which has been copyhold land, or land subject to a lease, exception, reservation, restriction, covenant or condition, or otherwise not being capable of being worked without the concurrence of two or more persons, or

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(b) by reason of the minerals being owned in such small parcels that they cannot be properly or conveniently worked by themselves, a right to work the minerals may be conferred on a person having an interest in the minerals or, in the case of minerals owned in small parcels, in minerals adjacent to them (exercisable either by himself or through a lessee) .

### Coal

Paragraph 3 of Table.

<sup>F3</sup> . . .

### All minerals

Paragraph 4 of Table.

(1) Subject to sub-paragraph (2) below, where the persons working two adjoining mines have agreed on an adjustment of boundaries between the mines with a view to reducing the amount of minerals to be left unworked between the mines, or to enabling the minerals to be worked more efficiently or more economically, and effect cannot be given to the agreement by reason of the failure or refusal of the lessors of the mines, or the owners of the surface, or any of them, to concur, a right may be conferred on the persons working the mines respectively to work the minerals in accordance with such adjusted boundaries.

(2) No order shall be made under this paragraph on the ground of any failure or refusal on the part of the [<sup>F4</sup> Coal Authority]

### All minerals: ancillary rights

Paragraph 5 of Table.

(1) An ancillary right may be conferred on a person having the right to work minerals, who is working or desirous of working the minerals either by himself or through his lessees, if the right is required in order that the minerals may be properly and conveniently worked by him, and the proper and efficient working of the minerals is unduly hampered by his inability or failure to obtain that right.

(2) An ancillary right may be conferred on a person on whom a right to work minerals is conferred under this Act at the same time or at any subsequent time

#### Annotations:

##### Amendments (Textual)

- F1** S. 1 Table para. 1 substituted by Mines (Working Facilities and Support) Act 1974 (c.36), s. 1
- F2** Words in s. 1 Table para. 1 repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(e), Sch. 9 para. 10(1)(a), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F3** S. 1 Table para. 3 repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(e), Sch. 9 para. 10(1)(b), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F4** Words in s. 1 Table para. 4(2) substituted (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), **Sch. 9 para. 10(1)(c)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

##### Modifications etc. (not altering text)

- C1** S. 1 Table para. 1 extended (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), **Sch. 9 para. 10(2)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

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## 2 Ancillary rights.

(1) In this Act “ancillary right” means, in relation to minerals, any facility, right or privilege and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, that expression shall include—

- (a) a right to let down the surface,
- (b) a right of air-way, shaft-way or surface or underground wayleave, or other right for the purpose of access to [<sup>F5</sup>or conveyance of minerals or the] ventilation or drainage of the mines,
- (c) a right to use and occupy the surface for the erection of washeries, coke ovens, railways, by-product works or brick making or other works, or of dwellings for persons employed in connection with the working of the minerals or with any such works as aforesaid;
- (d) a right to obtain a supply of water or other substances in connection with the working of minerals;
- (e) a right to dispose of water or other liquid matter obtained from mines or any by-product works.

(1A) ..... F6

(2) The court in determining whether a right under subsection (1)(a) above should be granted—

- (a) shall have regard to the value of minerals required for the support of any works or buildings or intended works or buildings on or below the surface as compared with the value of the buildings or works, and as to whether the support of the works or buildings or intended works or buildings is in the national interest more important than the working of those minerals, or
- (b) if there are no such buildings or works, shall have regard to the extent to which the use of the surface for the purposes for which it is used or is intended to be used will be prejudicially affected by subsidence, and as to whether the support of the surface is in the national interest more important than the working of the minerals required for its support.

(3) So far as required in order that coal may be properly and conveniently worked, and where the surface has been used for the erection—

- (a) of any works for a coal-mining purpose, or
- (b) of dwellings for persons employed in connection with the working of coal, or in connection with any works within paragraph (a) above or subsection (1) (c) above,

the expression “ancillary right” shall also include a right to use and occupy the works or dwellings for the purposes for which they were erected.

(4) Where a right within subsection (3) above is to be granted on the termination of a lease, and a right to erect or use the works or dwellings was comprised in that lease, the court, in determining whether any compensation or consideration is to be paid or given in respect of the right to be granted by the court and the amount thereof, if any, shall have regard to the fact that the right comprised in the lease was therein comprised and to the amount of any rent reserved by the lease in respect thereof.

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#### Annotations:

#### Amendments (Textual)

- F5** Words substituted by virtue of [Town and Country Planning \(Minerals\) Act 1981 \(c.36, SIF 123:1\)](#), [s. 33\(1\)](#) and [Petroleum Act 1987 \(c. 12, SIF 86\)](#), [s. 27\(a\)](#).
- F6** [S. 2\(1A\)](#) (inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36, SIF 123:1\)](#), [s. 33\(2\)](#)) repealed by [Petroleum Act 1987 \(c. 12, SIF 86\)](#), [ss. 27\(b\)](#), 30, Sch. 3

### 3 Limitations on grant of rights.

- (1) No right shall be granted under section 1 of this Act unless the court is satisfied that the grant is expedient in the national interest.
- (2) No right shall be granted under section 1 of this Act unless it is shown that it is not reasonably practicable to obtain the right by private arrangement for any of the following reasons—
  - (a) that the persons with power to grant the right are numerous or have conflicting interests;
  - (b) that the persons with power to grant the right, or any of them, cannot be ascertained or cannot be found;
  - (c) that the persons from whom the right must be obtained, or any of them, have not the necessary powers of disposition, whether by reason of defect in title, legal disability or otherwise;
  - (d) that the person with power to grant the right unreasonably refuses to grant it or demands terms which, having regard to the circumstances, are unreasonable.

### 4 Applications for rights.

- (1) An application for the grant of a right under section 1 of this Act shall be sent to the Minister, and the applicant for an ancillary right for the purpose of or in connection with working any minerals may be a person either having or applying for the right to work those minerals.
- (2) The application shall set out the circumstances alleged to justify the grant of the right, and shall be in such form and accompanied by such information verified in such manner as the Minister may direct.
- (3) The Minister shall consider the application, and shall, unless after communication with such other parties interested (if any) as he may think fit, he is of opinion that a *prima facie* case is not made out, refer the matter to the court:  
Provided that, where it is alleged that the right in question cannot be obtained by reason of any person not having the necessary powers of disposition, or having unreasonably refused to grant it, or having demanded terms which are unreasonable, the Minister shall not refer the application to the court without first having communicated with that person.
- (4) Where the application relates to a right to obtain a supply of water, or a right to dispose of water or other liquid matter, or any other right which appears to the Minister to affect any local authority, the Minister before referring the application to the court shall send a copy of the application to the local authority in order to enable them to take such steps as they think fit for placing their views before the court.

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(5) No application with respect to the grant of a right under [F7 paragraph 1] in the Table in section 1 of this Act made [F7 in respect of coal] shall be referred by the Minister to the court unless the [F7 Coal Authority] have given notice in writing to the Minister that they have no power to grant the right, or any of the rights, for which the application is made.

[F8(6) In subsection (5) above “coal” does not include lignite or brown coal but (subject to that) does include, together with coal as defined in this Act, all other minerals worked or to be worked therewith.]

#### Annotations:

##### Amendments (Textual)

- F7** Words in s. 4(5) substituted (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), **Sch. 9 para. 10(3)(a)(i)(ii) (iii)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F8** S. 4(6) inserted (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), **Sch. 9 para. 10(3)(b)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

## 5 References of applications to court.

- (1) Where a matter is referred to the court under the last foregoing section, the court, if satisfied that the requirements of this Act are complied with in the case of the applicant, may, by order, grant the right on such terms and subject to such conditions, and for such period, as the court may think fit, and upon such an order being made, the right specified in the order shall, subject to the following provisions of this Act, vest in the applicant.
- (2) Where a right is granted, such compensation or consideration as in default of agreement may be determined by the court shall be paid or given by the applicant in respect of the acquisition of the right to such persons as the court may determine to be entitled thereto.
- (3) In determining the duration of any right to be granted the court shall have regard to the time reasonably necessary to enable the minerals to be fully worked, and where the applicant’s interest in any minerals is an interest as lessee shall have regard to the duration of the interest.
- (4) In determining whether any right should be granted or the conditions upon which any such right should be granted the court shall have regard to all the circumstances of the case, and in particular to the extent to which the retention of any minerals is required for the protection of any mines or other works from flooding, or for any other mining purpose, and (so far as relevant) to the royalties, covenants, and conditions reserved by or contained in the applicant’s existing mining lease or leases (if any), or customary in mining leases in the district.
- (5) If in the case of an application for the grant of a right under paragraph 1 or paragraph 3(2) in the Table in section 1 of this Act, it is proved to the satisfaction of the court that there is good cause for requiring the applicant to give security for any costs which may be ordered to be paid by him to any person affected by the application, the court shall have power to make an order that all proceedings upon the application shall be stayed until such security for the costs of that person as may be required by the order has been given to the satisfaction of the court, and may order the payment into the [F9 Senior

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Courts] (or, in Scotland, the consignment in the Court of Session) of the whole or any part of any sum so required to be paid by way of such security.

**Annotations:**

**Amendments (Textual)**

- F9** Words in [Act](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 4](#); [S.I. 2009/1604, art. 2\(d\)](#)

**6 Several applications in respect of the same rights.**

- (1) Where separate applications are made by two or more persons for the right to work the same minerals and are referred to the court, the court, in addition to the matters aforesaid, shall determine which, if any, of the applicants is to be preferred, or whether the right to work one part of the minerals should be granted to one applicant and the right to work another part should be granted to another applicant; and in arriving at its determination the court shall have regard to the question as to how the minerals can be most conveniently worked, to the respective rights of the applicants in the surface or adjacent minerals, and generally to all the circumstances of the case.
- (2) This section shall apply to cases of applications by two or more persons for the same ancillary right subject to the necessary modifications, and so that the right may be granted to the applicants, or to any two or more of them, jointly.

**Changes to legislation:**

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