



Mineral Development Act (Northern Ireland) 1969

1969 CHAPTER 35

ANCILLARY MINING FACILITIES

23^{F1} Acquisition of land and ancillary rights.

- (1) Where it appears to the Ministry that, for the purpose of facilitating the working of any mines and minerals (whether vested in the Ministry or not), it is necessary or expedient to acquire any land or any ancillary right, the Ministry may acquire any such land or right by agreement, or, if satisfied that it is in the public interest to do so, may by order compulsorily acquire that land or that ancillary right.
- (2) The Ministry may also exercise the powers conferred by virtue of subsection (1), so far as they relate to the acquisition of ancillary rights, where it appears to the Ministry that it is necessary or expedient to do so to facilitate searching for mines and minerals by—
 - (a) the Ministry, or
 - (b) any person to whom a prospecting licence is granted, or
 - (c) any person who is the owner of mines and minerals of any description in any land and proposes to search for mines and minerals of that description in that land, or
 - (d) any person who is the holder of any authorisation corresponding to a prospecting licence which has been granted to him by a person such as is mentioned in paragraph (c),

where such searching is or is to be conducted otherwise than as part of the operation of working those mines and minerals.

- (3) An order made under subsection (1) or (2) is in this Act referred to as a “mining facilities order”, and any land or ancillary right acquired by agreement under that subsection or by an order is in this Act referred to as an “acquired mining facility”.

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- (4) The provisions of Schedule 2 shall apply with respect to the making and effect of mining facilities orders.

F1 1964 c.28 (NI)

24^{F2} Provisions supplemental to section 23.

- (1) A mining facilities order may provide for the incorporation in the order of any transferred provision contained in a clauses Act, subject to any modifications of that provision specified in the order.
- (2) The powers conferred on the Ministry by section 23 may be exercised over land—
- (a) which is the property of a local authority, or
 - (b) which is the property of any public body which has power under any transferred provision to acquire land compulsorily, or
 - (c) which is declared by or under any transferred provision to be inalienable,
- and notwithstanding anything in any transferred provision any body which is the owner of land such as is mentioned in paragraph (c) shall have power to enter into an agreement such as is mentioned in subsection (1) of section 23 (either for the purposes of that subsection or for the purposes of subsection (2) of that section) and carry it into effect; but the Ministry shall not make a mining facilities order in relation to any land such as is mentioned in paragraph (a), paragraph (b) or paragraph (c) unless the proposals for making the order have been approved by a resolution of each House of Parliament.
- (3) The Ministry shall not make a mining facilities order in relation to any land [^{F3} on or in which there is a historic monument], without the consent of the Ministry of Finance^{F4}.
- (4) The powers conferred by sections 23 to 26 shall not be exercised for the purpose of facilitating the working of any scheduled substance except to the extent that the working of that substance is necessary or expedient for the purpose of facilitating the working of any mineral which is not a scheduled substance.
- (5) Section 23 does not authorise the compulsory acquisition of any land, or of ancillary rights over any land, which is the property of Her Majesty or any government department or any religious denomination or educational institution.
- (6) In subsection (1) “clauses Act” means any act for consolidating in one Act provisions usually contained in Acts authorising the carrying out of particular undertakings.

F2 1964 c.28 (NI)

F3 1971 c.17 (NI)

F4 Functions transf., SR 1976/80

25^{F5} Exercise by Ministry of acquired mining facilities.

The Ministry may make use of any acquired mining facility—

- (a) where it is acquired under section 23(1), for the purpose of facilitating the working of, or
- (b) where it is acquired under section 23(2), for the purpose of facilitating searching for,

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any mines and minerals vested in the Ministry.

F5 1964 c.28 (NI)

26^{F6} Mining facilities permits.

- (1) Without prejudice to subsection (4), the Ministry may grant to any person who—
 - (a) under any mining lease or mining licence granted by the Ministry, or
 - (b) by virtue of his ownership of any other estate in land,has a right to work any mines and minerals, a permit authorising him to use any acquired mining facility for the purpose of facilitating the working of those mines and minerals.
- (2) Where any ancillary rights have been acquired under subsection (2) of section 23, a corresponding permit may also be granted to a person such as is mentioned in paragraph (b), (c) or (d) of that subsection, where it appears to the Ministry to be necessary or expedient to authorise him to use those rights for the purpose of facilitating his searching for mines and minerals.
- (3) A permit granted under subsection (1) or (2) is in this Act referred to as a “mining facilities permit” .
- (4) Where the Ministry proposes to grant both a prospecting licence or a mining lease or a mining licence and one or more than one mining facilities permit to the same person in respect of the same mines and minerals, the mining facilities permit or permits may, if the circumstances permit, be included in the prospecting licence, the mining lease or, as the case may be, the mining licence.
- (5) An application may be made to the Ministry for a mining facilities permit notwithstanding that any land or ancillary right to which the permit is proposed to relate has not, at the time of application, been acquired by the Ministry, but the Ministry shall not acquire any land or ancillary rights under section 23 by agreement, or make a mining facilities order, in consequence of such an application, unless the Ministry is satisfied that it is not reasonably practicable for the applicant otherwise to acquire the land or ancillary rights with respect to which the application for the permit is made for any of the reasons mentioned in paragraphs (a) to (d) of section 14(3).

F6 1964 c.28 (NI)

27^{F7} Conditions of mining facilities permits.

A mining facilities permit shall be granted for such consideration, if any, as may be agreed upon between the Ministry and the applicant and shall be subject to such terms and conditions as may be specified in the permit; and such a permit—

- (a) may, in particular, include a condition regarding the giving of security by the person to whom the permit is granted for the fulfilment of his obligations under the permit; and
- (b) shall include a condition requiring that person to pay to the Ministry sums equivalent to the amounts of—
 - (i) any costs incurred by the Ministry in acquiring the land, or any ancillary right, to which the permit relates, and

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(ii) any consideration or compensation (including any interest thereon) payable by the Ministry in connection with the acquisition, except to the extent that any such sums have already been so paid by that or any other person in consequence of the grant of a previous mining facilities permit; and, notwithstanding anything contained in any transferred provision, any sum which is paid to the Ministry under sub-paragraph (ii) may be held by the Ministry for the purpose of being applied by it in paying the consideration or compensation in question.

F7 1964 c.28 (NI)

28^{F8} Surrender of acquired mining facilities.

- (1) The Ministry, at the request of any person who has an estate in land the subject of acquired mining facilities, may surrender any such facility on such terms and for such consideration, if any, as may be agreed upon.
- (2) Where a mining facilities permit is in force with respect to any facility such as is mentioned in subsection (1), the facility shall not be surrendered under that subsection otherwise than with the consent of the holder of the permit.

F8 1964 c.28 (NI)

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