

# Mineral Development Act (Northern Ireland) 1969 [F001](#)

## 1969 Chapter 35

An Act to facilitate the discovery and working of minerals, with certain exceptions, and for connected purposes.

[18th December 1969]

### **Vesting of mines and minerals in the Ministry of Commerce, with certain exceptions**

#### **Vesting of mines and minerals in the Ministry.**

1. —

- (1) Subject to subsection (3), the property in all minerals existing in natural condition in land in Northern Ireland, and in all mines for the working of such minerals, is hereby vested in the Ministry of Commerce (in this Act referred to as "the Ministry").
- (2) Without prejudice to the succeeding provisions of this Act relating to the payment of compensation in respect of the mines and minerals vested in the Ministry by virtue of subsection (1), those mines and minerals shall so vest free from all claims or estates whatsoever and notwithstanding any transferred provision in any local or private Act.
- (3) Subsection (1) shall have effect subject to the exceptions contained in sections 2 to 7.

#### **Exception of scheduled substances and mines thereof.**

2. Subsection (1) of section 1 shall not apply to any substances such as are mentioned in Schedule 1 (in this Act referred to as "scheduled substances") or any mines for the working of such substances.

#### **Exception of mines and minerals already vested in the Ministry.**

3. Subsection (1) of section 1 shall not apply to any mines and minerals which, immediately before the commencement of that section, were vested in the Ministry whether by virtue of section 6 of, and Schedule 1 to, the Minerals (Miscellaneous Provisions) Act (Northern Ireland) 1959 [M25](#) (in this Act referred to as "the Act of 1959") or otherwise howsoever.

#### **Exception of certain other Crown mines and minerals.**

4. Subsection (1) of section 1 shall not apply to any mines and minerals vested in Her Majesty or in any department of the Government of the United Kingdom.

#### **Exception of mines and minerals the property of religious denominations and educational institutions.**

5. Subsection (1) of section 1 shall not apply to any mines and minerals which are the property of any religious denomination or educational institution.

#### **Exception of merged mines and minerals.**

6. Subsection (1) of section 1 shall not apply to any mines and minerals with respect to which a merging order has been made under section 8 of the Act of 1959 (power of Ministry by order to merge all rights to or in relation to mines or minerals in any land which are vested in the Ministry by virtue of section 6 of that Act in the fee simple in that land, where the minerals are of insignificant quantity or value).

**Exception of minerals held in connection with mines in work or being developed, and of mines of such minerals.**

**7. —**

(1) Subject to section 9(1), where at the commencement for section 1 a person is lawfully working or developing a mine of the working of minerals of any description or descriptions in any land, subsection (1) of section 1 shall not apply to any minerals of that description or those descriptions, or to any mines of such minerals,—

(a) in that land, or

(b) in reserve areas.

(2) In subsection (1) "reserve areas " in relation to minerals of any description or descriptions means any lands (whether or not contiguous to the land mentioned in that subsection or to each other) in which the person so mentioned is entitled to work minerals of that description or those descriptions.

**Provisions for securing the disclosure of interests in certain excepted mines and minerals**

**Registration of mineral rights where mines are in work or being developed.**

**8. —**

(1) Every owner of an estate in possession in mines and minerals which have, by virtue of section 7, been excepted from the application of section 1(1) shall, before the first appointed day, make application to the Ministry, in such form accompanied by such particulars as may be approved by the Ministry, for the registration of his estate under this section.

(2) Where the mines and minerals are the subject of a settlement and the trustees, if any, of the settlement have, or any other person entitled under the settlement has, reason to believe that a person entitled to make application under subsection (1) cannot, or it is not likely to, make the application before the first appointed day, the trustees or that other person may make the application on his behalf, and if no application is received from him before that day any application so made shall be deemed to be made by him.

(3) The Ministry shall keep a register of estates in mines and minerals to which subsection (1) applies in such form and at such place, and shall enter in it such particulars of all estates for the registration of which application is duly made under this section and is not, or is not treated as, withdrawn, as the Ministry thinks fit.

(4) The register kept under subsection (3) shall be open for inspection by any person at all reasonable hours.

(5) A person who makes application under subsection (1), or on behalf of any other person under subsection (2), for the registration of an estate in mines and minerals shall, on being so required by notice served on him by the Ministry, furnish to the Ministry such further and better particulars as are within his knowledge or can reasonably be procured by him as the Ministry may require to enable it to know—

(a) whether the mines and minerals are mines and minerals to which section 7 applies; or

(b) whether the applicant or the person on whose behalf the application is made is entitled to be registered as the owner of that estate; or

(c) the nature of the estate, or the extent of the land or the description of any mines and minerals which is or are subject to it;

and if any person, within such reasonable period as the Ministry by notice served on him specifies, fails to comply with any requirement duly made of him under this subsection his application shall on the expiration of that period be treated as withdrawn.

(6) In this section and sections 9 and 10 "estate " means—

a legal or equitable life estate;

a legal or equitable fee tail;

a legal or equitable fee simple absolute;

a tenancy; or

an equity of redemption in relation to a mortgage of any of the above estates; but does not include either a legal or equitable life estate, fee tail or fee simple absolute to which a person is entitled as a mortgagee or a mortgage term, except where the mortgagee is in possession.

### **Consequences of non-registration under section 8.**

#### **9. —**

(1) Where mines and minerals of any description in any land have, by virtue of section 7, been excepted from the application of section 1(1) and—

(a) no application for the registration under section 8 of any estate in the mines and minerals of that description in that land is duly made under subsection (1) or (2) of that section, or

(b) every such application which is so made is or is treated as withdrawn,

then, as from the first appointed day (or, where a sole application or a last outstanding application is or is treated as withdrawn at a time subsequent to that day, as from that time), section 1(1) shall be deemed to have had effect with respect to the mines and minerals of that description in that land as if section 7 had not been passed, but subject to subsection (2).

(2) Subsection (1) shall not render unlawful anything otherwise lawfully done before the first appointed day (or, as the case may be, the time mentioned in that subsection) by or on behalf of any person mentioned in section 7, or any successor in title of his, in or for the purpose of working the mines and minerals in question.

### **Safeguards for persons working or developing mines.**

#### **10. —**

(1) A person aggrieved by—

(a) the refusal of the Ministry to register any estate in mines and minerals on an application made by him under subsection (1) of section 8, or by him on behalf of any other person under subsection (2) of that section, or

(b) any requirement made of him by the Ministry under subsection (5) of that section,

may appeal against the refusal or requirement to the Lands Tribunal, and the Tribunal, if satisfied that registration should be allowed (with or without the furnishing of further and better particulars) or, as the case may be, that the requirement should be varied or discharged, may order 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 in default of the registration of some estate therein under section 8, the Lands Tribunal, on an application made by any person who would have been entitled to an estate in possession in those mines and minerals were it not for the operation of section 9(1), or, where the mines and minerals would have been the subject of a settlement, by the trustees, if any, of the settlement or any other person entitled under the settlement, may make an order annulling the operation of section 9(1) in relation to those mines and minerals and requiring the registration before a day specified in the order of any estate therein which is subsisting by virtue of the order; and where such an order is made sections 8 and 9 and subsection (1) of this section shall thereafter apply in relation to those mines and minerals with the necessary modifications and in particular as if any reference in section 8 or 9 to the first appointed day were a reference to the day so specified.

(3) On an application under subsection (2) the Lands Tribunal shall not make an order such as is mentioned in that subsection unless it is satisfied—

(a) that there was good reason for the failure to submit an application under subsection (1) or (2) of section 8 before the first appointed day, and

(b) where the Ministry has exercised or proposes to exercise any of the powers conferred on it by sections 11 and 15 to 19 in relation to the mines and minerals in question, that the granting of the application will not prejudice the reasonable and legitimate interests of the Ministry or any other person.

(4) Without prejudice to subsection (3)( b ), no order made under this section shall have the effect of—

(a) prejudicing any disposition duly made, licence, permission or permit duly granted or thing duly done by the Ministry under the succeeding provisions of this Act or any thing duly done by any other person under the authority of any such disposition, licence, permission or permit; or

(b) rendering the Ministry or any such other person liable to any proceedings whatsoever in consequence of any such disposition, licence, permission, permit or thing.

## Prospecting

### Power of Ministry to prospect or grant prospecting licences.

11. —

(1) Where it appears to the Ministry that any mines and minerals vested in the Ministry may be situated in any land, the Ministry, for the purposes of searching for those mines and minerals, may, subject to any rights conferred upon any other person by any lease or licence granted by the Ministry and subject to subsections (3) and (4),—

(a) subject to sections 47 and 58(3), enter upon the land and there do all such things as are necessary for, or reasonably incidental to, those purposes, and, without prejudice to the generality of the foregoing provisions, in particular make borings, sink pits, remove water from old workings and take and remove reasonable quantities of any such minerals for analysis, test, trial or experiment; or

(b) grant to any person, in accordance with the succeeding provisions of this section and section 12, a licence (in this Act referred to as "a prospecting licence ") authorising that person to do anything that the Ministry is authorised to do by paragraph ( a ), subject to and in accordance with the provisions of this Act.

(2) Where the land mentioned in subsection (1) is owned or occupied by a government department, no exercise of the power conferred by paragraph ( b ) of that subsection shall be taken as authorising the licensee to exercise any right in relation to that land otherwise than with the written consent of that department.

(3) Before exercising with respect to any land the right conferred by paragraph ( a ) or the power conferred by paragraph ( b ) of subsection (1), the Ministry shall notify its intention to do so by publishing 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 the Ministry proposes to exercise the right or power in question;

(b) mentioning the land in relation to which the right or power is proposed to be exercised; and

(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.

(4) Without prejudice to subsection (3), the Ministry, not less than one month before exercising the right or, as the case may be, the power mentioned in that subsection, shall serve notice of its intention to do so on—

(a) every other government department;

(b) every local authority within whose area the land, or any part of the land, in relation to which the right or power is proposed to be exercised is situated; and

(c) every public body which, in the opinion of the Ministry, will be materially affected by any activity likely to be carried on in the exercise of the right or in consequence of the exercise of the power.

(5) Where the Ministry publishes under subsection (3), or serves under subsection (4), a notice with respect to the proposed exercise of any right or power, before exercising that right or, as the case may be, that power it shall take into account any representations which are made to it—

(a) by any person other than a person on whom such a notice was served, before the expiration of a period of one month from the date of the last such publication;

(b) by the person on whom such a notice was served, before the expiration of a period of one month from the date of the service of the notice on him or such longer period as the Ministry may in any case permit in writing.

## **Provisions with respect to prospecting licences.**

### **12. —**

(1) Before granting a prospecting licence the Ministry may require the applicant to furnish evidence as to his character, financial standing or technical qualifications and to give such security as the Ministry may think fit for the fulfilment of his obligations under the licence.

(2) A prospecting licence may be granted for such consideration, if any, as may be agreed upon between the Ministry and the applicant, and shall be for such period and upon such other terms and conditions as may be specified in the licence.

(3) Without prejudice to subsection (2), it shall be a condition of the granting of a prospecting licence that the applicant shall pay a reasonable sum towards the Ministry's costs in connection with the grant.

## **Working of mines and minerals by licensees and duty to give information respecting minerals.**

### **13. —**

(1) Without prejudice to any power conferred under section 11(1)( *b* ), the licensee under a prospecting licence shall work mines and minerals only to such extent as is reasonably necessary for enabling him to ascertain the existence, character, extent or value of the mines and minerals to which his licence relates, and shall not sell or otherwise dispose of minerals worked by him except for the purpose of ascertaining the character or value thereof.

(2) The licensee shall cause to be quantified (by weighing or in such other manner as the Ministry may approve) all minerals worked by him and shall keep records in the prescribed manner of all minerals worked or sold or otherwise disposed of by him, and shall produce such records for inspection by any authorised officer of the Ministry, when so required.

(3) The licensee shall keep the Ministry informed of any knowledge gained by him as to the existence, character, extent or value of mines and minerals in the lands to which the licence relates and of the result of any analysis, test, trial or experiment carried out by him or on his behalf in relation to such minerals.

## **Undertaking by the Ministry to grant mining leases, etc.**

### **14. —**

(1) On the granting, or at any time during the currency, of a prospecting licence, the Ministry may give an undertaking to the licensee under the licence that if, at any time during the currency or on the expiration of the licence, the Ministry is satisfied that the prospecting carried on by the licensee has been successful and that the terms and conditions of the licence have been observed and performed, the Ministry will—

(a) subject to subsection (2), grant to the licensee by way of mining lease or mining licence under the succeeding provisions of this Act (to take effect from such date, either before or after the expiration of the prospecting licence, as may be specified in the mining lease or mining licence) the right to work mines and minerals vested in the Ministry;

(b) subject to subsections (2) and (3), take such steps as are reasonably practicable to secure—

(i) the acquisition by the Ministry in pursuance of this Act of any land or any ancillary rights which it is necessary or expedient to acquire in order that the rights granted under paragraph ( *a* ) may be conveniently and properly exercised, and

(ii) the making available to the licensee of all or any of the land or rights so acquired, by means of a permit granted by the Ministry to the licensee in accordance with the succeeding provisions of this Act.

(2) An undertaking under paragraph ( a ) or ( b ) of subsection (1) shall not operate to require the Ministry to grant the right mentioned in the said paragraph ( a ) or to acquire or make available the land or ancillary rights mentioned in the said paragraph ( b ), where by reason of any material change in circumstances it is not in the public interest to implement the undertaking.

(3) An undertaking under paragraph ( b ) of subsection (1) shall not operate to require the Ministry to acquire or make available any land or ancillary rights unless the Ministry is satisfied that it is not reasonably practicable for the licensee otherwise to obtain the land or rights for any of the following reasons—

(a) that the persons with power to transfer or concur in transferring the ownership of the land or to grant or concur in granting the rights are numerous or have conflicting interests;

(b) that such persons, or any of them, cannot be ascertained or cannot be found;

(c) that such persons, or any of them, have not the necessary powers of disposition, whether by reason of defect in title, legal disability or otherwise;

(d) that any such person unreasonably refuses to transfer or concur in transferring the land or to grant or concur in granting the right or, as a condition of doing so, makes demands which, having regard to the circumstances, are unreasonable.

(4) An undertaking under subsection (1) shall be in writing in such form as the Ministry thinks fit, and shall specify the terms and conditions upon which the undertaking is given; and every such undertaking shall include a condition that the licensee shall reimburse the Ministry in respect of any expenditure which may be incurred in connection with the procedures mentioned in that subsection.

### **Working or disposal of mines and minerals vested in the Ministry**

#### **Power of Ministry to work mines and minerals.**

**15.** The Ministry may, subject to any rights conferred by any lease or licence granted by the Ministry, work any mines and minerals vested in the Ministry and may dispose of any minerals so worked by sale or otherwise.

#### **Power to sell estate in mines and minerals.**

**16.** Where mines and minerals in any land are vested in the Ministry, the Ministry may sell its full estate in them or any lesser estate.

#### **Mining leases.**

**17.** —

(1) Subject to the succeeding provisions of this section, the Ministry may make a lease (in this Act referred to as a "mining lease ") of any rights to or in relation to mines and minerals of any description which are vested in the Ministry.

(2) A mining lease may contain a clause providing for the renewal or successive renewals thereof, either unconditionally or subject to such conditions as may be stated in the lease.

(3) In exercising the powers conferred on it by this section and in particular in fixing the payments to be made by the lessee under a mining lease and determining what covenants or conditions should be contained in the lease the Ministry may take into consideration the general advantages that are likely to accrue to Northern Ireland from the development of the mines and minerals demised by the mining lease.

(4) Where the payments to be made by the lessee under a mining lease are proposed to be fixed at a reduced amount in consideration of any advantages such as are mentioned in subsection (3), the Ministry shall not grant the lease otherwise than with the approval of the Ministry of Finance, and if the payments are so fixed that fact shall be stated in the lease.

## **Mining licenses.**

**18.** The Ministry may grant by way of licence (in this Act referred to as a "mining licence ") the right to work or otherwise deal with mines and minerals of any description which are vested in the Ministry.

## **Mining permissions.**

**19.** —

(1) Where mines and minerals of any description are vested in the Ministry, and any person—

(a) desires to obtain permission to work minerals of that description in small quantities by means of such mines or otherwise, and

(b) satisfies the Ministry that, on account of the small value or quantity of the minerals which he desires to work, or the limited period for which he desires to work them, or for any other reason, the permission required is of minor importance and will not materially affect the deposit of minerals vested in the Ministry,

the Ministry, on the application of that person, may grant him permission (in this Act referred to as a "mining permission ") to work minerals of that description, whether by any such mines or otherwise.

(2) Every mining permission shall be in writing and shall be expressed and shall operate to confer on the person to whom it is granted a right to work mines and minerals of the description specified therein, but subject to such restrictions as to the quantity of minerals to be worked and the duration of working as may be so specified.

(3) A mining permission shall not operate to confer on the grantee thereof an exclusive mining right in respect of the mines and minerals to which the permission relates.

## **Conditions of disposal.**

**20.** —

(1) Before granting a mining lease, mining licence or mining permission the Ministry may require the applicant to furnish evidence as to his character, financial standing or technical qualifications.

(2) Subject to section 21(2), before exercising any power of working mines and minerals in any land under section 15 or any power of selling an estate in such mines and minerals under section 16, and before granting any mining lease, mining licence or mining permission with respect to mines and minerals in any land, the Ministry shall notify its intention to do so by publishing 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 the manner in which the Ministry proposes to exercise the power;

(b) mentioning the land in relation to which the power is proposed to be exercised;

(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) notifying all persons who may be concerned that payment of—

(i) the compensation in respect of mines and minerals for which provision is made in the succeeding provisions of this Act, or

(ii) the percentage provided for in section 13(3) of the Irish Land Act 1903 [M26](#) ,

may fall to be made in consequence of the exercise of the power.

(3) Without prejudice to subsection (2) and subject to section 21(3), the Ministry, not less than one month before exercising any power of working mines and minerals under section 15 or any power of selling or leasing under section 16 or 17, shall serve notice of its intention to do so on—

(a) every other government department;

(b) every local authority within whose area is situated the land, or any part of the land, in which the mines and minerals proposed to be worked or proposed to be the subject of the sale or lease are situated;

(c) every public body which, in the opinion of the Ministry, will be materially affected by any activity likely to be carried on in connection with the working of those mines and minerals; and

(d) the owners and occupiers of the land in which the mines and minerals to be affected by the exercise of the power are situated.

(4) Where the Ministry publishes under subsection (2), or serves under subsection (3), a notice with respect to the proposed exercise of any power, before exercising that power it shall take into account any representations which are made to it—

(a) by any person other than a person on whom such a notice was served, before the expiration of a period of one month from the date of the last such publication;

(b) by the person on whom such a notice was served, before the expiration of a period of one month from the date of the service of the notice on him or such longer period as the Ministry may in any case permit in writing.

(5) Subject to section 17(3) and section 21(1), any disposal of minerals worked under section 15, or any sale of an estate in mines and minerals under section 16, or any grant of a mining lease, mining licence or mining permission, shall be for such consideration as may appear to the Ministry to be fair, and, in the case of any such lease, licence or permission, may be for a consideration by way of royalties (with or without any other payments) calculated in such manner as may be agreed upon between the Ministry and the person in whose favour the grant is made and upon such other terms and conditions as may be specified in the instrument by which the grant is effected; and the conditions aforesaid may, in particular, include a condition regarding the giving of security by the person in whose favour the grant is made for the fulfilment of his obligations under the lease, licence or permission.

(6) Without prejudice to subsection (5) and subject to section 21(7), it shall be a condition of the sale by the Ministry of any estate in mines and minerals or the grant of a mining lease, mining licence or mining permission that the purchaser or, as the case may be, the person to whom the lease, licence or permission is granted shall pay a reasonable sum towards the Ministry's costs in connection with the sale or grant.

(7) Subject to the succeeding provisions of this Act, and notwithstanding anything contained in any transferred provision, moneys received by the Ministry in respect of any consideration such as is mentioned in subsection (5) may be held by the Ministry for the purpose of being applied, so far as applicable, in paying the compensation mentioned in section 29 or the percentage mentioned in section 37.

#### **Disposal for nominal or no consideration in certain cases.**

#### **21. —**

(1) Where—

(a) the Ministry proposes to make any disposal of radioactive minerals, or any disposition of any estate in, or rights to or in relation to, such minerals thereof, to the Minister of Technology <sup>F002</sup> or the United Kingdom Atomic Energy Authority for the purposes of his or their functions under the Atomic Energy and Radioactive Substances Acts 1946 to 1959; or

(b) it appears to the Ministry, after due enquiry and investigation, that minerals vested in the Ministry, of significant quantity or value, are unlikely to exist in any land, and the Ministry proposes to make a disposition of any estate in such minerals or any mines thereof to the owner of the land; or

(c) the Ministry proposes to dispose of minerals worked under section 15, or to grant a mining permission with respect to any mines and minerals, and it appears to the Ministry that any consideration which might be obtainable

therefor would be insignificant or that any payments which would fall to be made by the Ministry to other persons in consequence of the disposal or grant would be too trifling to justify the expense of distribution; or

*Para. (d) spent*

subject to subsection (6) of section 20 (so far as that subsection is applicable) any such disposal or disposition may be made or any such mining permission may be granted for no consideration or a nominal consideration.

(2) Where the Ministry proposes—

(a) to work any mines and minerals under section 15 in circumstances such that the provisions of paragraph ( a ) or ( c ) of subsection (1) are likely to apply to the disposal of the minerals gotten by such working, or

(b) to make a disposition such as is mentioned in paragraph ( a ), ( b ) or ( d ) of that subsection,

it shall not be necessary for it to publish the notices mentioned in section 20(2).

(3) Where the Ministry proposes to make a disposition of any estate in mines and minerals in any land in circumstances such as are mentioned in paragraph ( b ) of subsection (1), it shall not be necessary for it to serve the notices mentioned in section 20(3).

(4) In subsection (1)( a ) "radioactive minerals " means minerals from which in the opinion of the Minister of Technology [F002](#) any prescribed substance within the meaning of the Atomic Energy Act 1946 [M27](#) can be obtained.

(5) Where a disposition of any estate in mines and minerals in any land is made by the Ministry under subsection (1)( b ), the disposition shall not prejudice the rights of any person entitled to the whole or any part of the percentage provided for in subsection (3) of section 13 of the Irish Land Act 1903 [M28](#) ; and upon the disposition becoming operative the second proviso to the said subsection (3) shall in its application to the land have effect as if the reference therein to twenty-five per cent. of any rent, purchase money or other net profit received by the Ministry upon a disposal of mining rights by the Ministry were a reference to twenty-five per cent. of any rent, purchase money or other net profit in respect of the mines and minerals which is received by the owner of the land upon a disposal of any mining rights by him.

*Subs.(6) spent*

(7) Where a disposition such as is mentioned in paragraph ( b ) or ( d ) of subsection (1) is made in circumstances where that paragraph applies, section 20(6) shall not apply but the Ministry may require the person to whom the disposition is made to pay a reasonable sum towards the Ministry's costs in connection with the disposition.

**Rights of entry and user of land containing mines and minerals vested in the Ministry.**

**22. —**

(1) Subject to sections 47 and 58(3), for the purpose of working any mines and minerals under section 15 or for any purpose incidental thereto the Ministry may enter on or into any land in which the mines and minerals are situated and use the land in such manner as may be necessary for, or reasonably incidental to, that purpose.

(2) Subject to subsection (3), where the Ministry sells an estate in mines and minerals or where mines and minerals are the subject of a mining lease, the Ministry may,—

(a) by the conveyance grant to the purchaser, or

(b) by the lease confer on the lessee, during the currency of the lease,

the like right of entering on or into the land in which the mines and minerals are situated, and of using the land, as the Ministry is entitled to exercise under subsection (1).

(3) Where the mines and minerals comprised in a sale to which subsection (2) applies or a mining lease are situated in land which is owned or occupied by a government department, no exercise of the power conferred by that

subsection shall be taken as authorising the purchaser or lessee to exercise any right in relation to that land otherwise than with the written consent of that department.

### **Ancillary mining facilities**

#### **Acquisition of land and ancillary rights.**

#### **23. [F003](#) —**

(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 ".

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

#### **Provisions supplemental to section 23.**

#### **24. [F003](#) —**

(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 [ [F004](#) on or in which there is a historic monument], without the consent of the Ministry of Finance [F005](#).

(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.

#### **Exercise by Ministry of acquired mining facilities.**

25. [F003](#) 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,

any mines and minerals vested in the Ministry.

#### **Mining facilities permits.**

26. [F003](#) —

(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).

#### **Conditions of mining facilities permits.**

27. [F003](#) 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
  - (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.

### **Surrender of acquired mining facilities.**

28. [F003](#) —

- (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.

## **Compensation for mines and minerals**

### **Compensation for mines and minerals vested in the Ministry under section 1.**

29. [F006](#) —

- (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 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.

### **Persons entitled to compensation under section 29.**

#### **30. —**

(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 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.

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

### **31. —**

(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.

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

### **32. —**

(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—

(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.

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

**33.** —

(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.

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

**34.** 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,

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

### **Compensation for loss of dead rent**

#### **Compensation for loss of dead rent.**

**35.** [F006](#) —

(1) Subject to subsections (3) to (5), where under a disposition made before 31st July 1969 any mines and minerals vested in the Ministry by virtue of subsection (1) of section 1 were immediately before the commencement of that section held by any person subject to a dead rent or other fixed annual payment, compensation for the loss of that rent or payment (or, where the rent or payment was attributable in part to mines and minerals so vested, for the loss of the part so attributable) shall be payable by the Ministry to the person who was entitled to receive that rent or payment.

(2) The provisions of sections 29 to 34 shall not apply to the payment of compensation under this section, and accordingly any such compensation may take the form of a lump sum payment or such other form as may be agreed or as may be determined by the Lands Tribunal.

(3) The foregoing provisions of this section shall not confer a right to compensation for the loss of any dead rent or other payment which was payable in respect of mines and minerals with respect to which section 1(1) is deemed to have had effect by virtue of section 9(1).

(4) If any disposition of an estate in, or rights to or in relation to, mines and minerals held as mentioned in subsection (1) is made to any person for no consideration or a nominal consideration in exercise of the power conferred by paragraph (d) of section 21(1), no compensation shall be payable under this section to that person, or any other person such as is mentioned in that paragraph, after the making of the disposition.

(5) Where compensation in respect of mines and minerals has been paid to any person under section 29, any compensation which would otherwise be payable to him under this section shall be reduced by the amount of the first-mentioned compensation or such lesser amount, if any, as may be appropriate.

### **Claims for compensation under section 35 and determination of disputes.**

#### **36. —**

(1) Subject to subsection (2), every claim for compensation under section 35 for the loss of any dead rent or other payment shall be submitted to the Ministry before the expiration of the period of one year from the date of the commencement of section 1.

(2) Where the Ministry is satisfied that good reasons exist for the failure of any person to submit a claim for the compensation mentioned in subsection (1) before the expiration of the period so mentioned, his claim may be accepted after the expiration of that period.

(3) Any question arising as to—

(a) the entitlement of any person to compensation under section 35, or

(b) the amount payable by way of that compensation, or

(c) the existence of good reasons such as are mentioned in subsection (2), where the Ministry has not accepted a late claim, or

(d) the appropriate amount of any reduction in that compensation which falls to be made by virtue of section 35(5),

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

### **Rights of former vendors**

#### **Share of persons entitled under s.13(3) of Irish Land Act 1903, where minerals disposed of by Ministry.**

#### **37. [F007](#) —**

(1) Where an estate in mines and minerals in any land is sold, or a mining lease, mining licence or mining permission with respect to mines and minerals in any land is granted, or minerals in any land which have been worked by the Ministry are disposed of, by the Ministry under this Act in circumstances such that twenty-five per cent. of any rent, purchase-money or other net profit received by the Ministry in respect thereof may be payable under the second proviso to section 13(3) of the Irish Land Act 1903 [M29](#) to the former vendors of an estate to which that proviso applies, the Ministry, unless it is aware of the names of all persons who are entitled to that percentage, shall publish, in two successive weeks, in the Belfast Gazette and in such newspapers as appear to the Ministry to be appropriate, a notice—

(a) stating that the said twenty-five per cent. may be available for distribution;

(b) mentioning the land and the name and record number (if known) of the estate;

(c) naming a place or places where maps identifying the land are available for inspection at all reasonable hours; and

(d) indicating that any person who is entitled to that percentage in respect of that land may submit his claim therefor 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 as mentioned in paragraph ( d ) of subsection (1) before the expiration of the period mentioned in that paragraph, his claim may be accepted after the expiration of that period.

(4) Where the payments made by a lessee under a mining lease granted in respect of mines and minerals in any land 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), the amount payable to the former vendors of the land under the second proviso to the said section 13(3) shall be twenty-five per cent. of the rent, purchase money or other net profit which would have been receivable by the Ministry under the lease if the payments had not been so fixed, instead of twenty-five per cent. of the net amount of those payments, and any excess of the amounts payable to the former vendors by virtue of this subsection over the amounts paid to the Ministry by the lessee shall be defrayed as expenses of the Ministry.

(5) Any question arising as to—

(a) the entitlement of any person to the percentage mentioned in subsection (1), or

(b) the amount payable by way of that percentage, or

(c) the existence of good reasons such as are mentioned in subsection (3), where the Ministry has not accepted a late claim, or

(d) the amounts which would have been receivable by the Ministry under a mining lease, as mentioned in subsection (4), if the payments by the lessee under the lease had not been fixed at a reduced amount under section 17(3),

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

(6) Where, for the purposes of a determination under subsection (5), it is necessary for the Lands Tribunal to determine the extent to which any rent, purchase money or other net profit is attributable to different parts of any land, subsection (2) of section 32 shall have effect as it has effect for the purposes of a determination under subsection (1) of that section.

### **Damage caused by mining operations**

#### **Compensation for damage caused in working minerals, etc.**

**38. —**

(1) Subject to the succeeding provisions of this section, where damage is caused, directly or indirectly, either—

(a) by working, or doing anything incidental to the working of, mines and minerals vested in the Ministry, or

(b) by exercising a right of entry or user of land conferred by or under this Act or the Act of 1959,

the person suffering the damage shall be entitled to recover compensation for the damage from the person causing the damage.

(2) <sup>F008</sup> Any question arising as to—

(a) the entitlement of any person to compensation under this section, or

(b) the amount payable by way of that compensation,

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

(3) <sup>F008</sup> Compensation under this section in respect of damage to land shall not be payable to any person from whom any land has, or ancillary rights over any land have, been acquired by the Ministry under this Act and to whom any compensation is payable under [<sup>F021</sup>Article 8(1) to (3) of the Land Compensation (Northern Ireland) Order 1982] by the Ministry in respect of injurious affection of the first-mentioned land.

(4) <sup>F008</sup> In assessing compensation under this section in respect of damage to land regard shall be had to any benefit which the person entitled to the compensation may derive from any works which have been or are to be carried out, or any use of land, by the person causing the damage.

(5) <sup>F008</sup> In assessing compensation under this section in respect of damage to land regard shall also be had to any undertaking given by the person causing the damage to make alterations or additions to any works, or to construct additional works, or to vary or abandon any use of land, or to abandon part of any land acquired or any ancillary rights, or to grant other lands or easements.

(6) <sup>F008</sup> Where for the purpose of assessing the amount of any compensation payable under this section the value of any land is required to be determined, that value shall be determined in accordance with rules (2) to (4) of <sup>F021</sup>Article 6(1) of the Land Compensation (Northern Ireland) Order 1982].

(7) <sup>F009</sup> Where the amount of compensation which is payable under this section has been determined but for some reason it is not possible for the person who is liable to make the payment to obtain a good discharge therefor, that person may, or, if the Lands Tribunal so directs, shall, pay that amount—

(a) if it does not exceed <sup>F022</sup>£30,000], into the county court; or

(b) if it exceeds <sup>F022</sup>£30,000], into the High Court.

(8) <sup>F009</sup> Money paid into the county court or, as the case may be, the High Court under subsection (7) shall, subject to county court rules or rules of court, be dealt with according to the orders of the court.

(9) <sup>F009</sup> This section shall have effect to the exclusion of <sup>F021</sup>Article 18 of the Land Compensation (Northern Ireland) Order 1982].

#### **Power of Lands Tribunal to prohibit, restrict or terminate certain operations.**

#### **39. —**

(1) Where, on application made by the owner or occupier of any land, the Lands Tribunal is satisfied—

(a) that operations by the Ministry under section 11, 15 or 25 or by a licensee under a prospecting licence or a grantee under a mining lease, mining licence, mining permission or mining facilities permit are being, or that the applicant has reasonable cause to believe that they will be, carried out in such a manner as, if continued, to cause damage to any dwelling-house on the land or to render any such dwelling-house incapable of being beneficially occupied or to make the land incapable of being beneficially occupied or productively used, and

(b) that the applicant is not bound by the terms of any agreement or order authorising the carrying out of the operations,

the Tribunal may make an award prohibiting, restricting or terminating operations on the land by the Ministry or, as the case may be, the licensee or grantee until any, or any combination, of the following things is done, that is to say,—

(i) satisfactory arrangements are made for the payment of compensation under section 38 for any damage which may be, or has already been, caused;

(ii) adequate security for the payment of such compensation is given;

(iii) an agreement is arrived at or, if the circumstances are such that a mining facilities order can be made, such an order is made for the acquisition of the dwelling-house or the land or, as the case may require, of appropriate ancillary rights in respect of the land;

(iv) an undertaking such as is mentioned in section 38(5) is given by the Ministry or, as the case may require, the licensee or grantee.

(2) Where, on application made by the owner or occupier of any land, the Lands Tribunal is satisfied that the applicant has reasonable cause to believe that a licensee under a prospecting licence or a grantee under a mining lease, mining licence, mining permission or mining facilities permit is carrying out or is about to carry out operations on the land in contravention of any of the provisions of this Act or of any conditions of the licence, lease, permission or permit, the Tribunal may, upon such terms (including terms as to the payment of compensation under section 38

for damage which has already been caused or the giving of security therefor) as it thinks proper, make an award prohibiting, restricting or terminating such operations on the land.

(3) For the purposes of paragraph (b) of subsection (1) an owner or occupier of land shall be deemed to be bound by the terms of an agreement or order authorising the carrying out of operations such as are mentioned in paragraph ( a ) of that subsection, if those operations constitute an exercise of powers in connection with which compensation is payable under [[F021](#) **Article 8(1) to (3) of the Land Compensation (Northern Ireland) Order 1982**] in respect of injurious affection of the land.

(4) In this section any reference to a prospecting licence or a mining lease includes a reference to such a licence or, as the case may require, such a lease granted under the Act of 1959.

#### **Restrictions on working minerals required for support.**

#### **40. —**

(1) Where, on application made by a person having an estate in any land who is not entitled to support or sufficient support (whether vertical or lateral) for any buildings or works erected or constructed, or intended to be erected or constructed on or below the surface, the Lands Tribunal is satisfied that it is not reasonably practicable to obtain a right to such support by private arrangement, the Tribunal may, upon such terms as it thinks proper, make an award imposing such prohibitions or restrictions on the working of minerals in that land and the land adjacent thereto as it considers necessary to secure sufficient support to the buildings or works.

(2) The restrictions may be either on the quantity or position of the minerals to be worked, or on the methods of working or packing, or otherwise such as may be necessary to secure adequate support to the buildings or works or to prevent or minimise damage thereto.

(3) In considering what restrictions, if any, should be imposed under this section regard shall be had to the value of the buildings or works or the cost of repairing damage likely to be caused thereto by subsidence, as compared with the value of the minerals, or to the importance of the erection or construction or the preservation of the buildings or works as compared with the importance, in the public interest, of the working of the minerals.

(4) The terms which may be imposed by an award under this section include terms as to the payment of compensation by the applicant or the giving of security therefor.

(5) For the purposes of this section, where any building or work is a national monument to which section 25 of the Irish Church Act 1869 [M30](#) applies or [[F004](#) a scheduled monument within the meaning of the Historic Monuments Act (Northern Ireland) 1971 [M31](#) or is a historic monument which is the subject of a protection order under the said Act of 1971 or is owned by or vested in, or is in the guardianship of,] the Ministry of Finance [F005](#) or of a local authority, the Ministry of Finance [F005](#) or the local authority, as the case may be, shall be deemed to be a person entitled to make an application under this section.

(6) This section shall not prejudicially affect any right under the Railways Clauses Consolidation Act 1845 [M32](#) ... [F011](#) (including that Act as applied, with or without modifications, by any other transferred provision) or any other transferred provision (including such a provision in a local or private Act) of any railway company, local authority or public body to prohibit, restrict or regulate the working of minerals for the preservation of support, nor shall it confer on any such company, authority or body, except as provided in subsection (5), a right to apply under this section for any prohibition or restriction on the working of minerals.

#### **General provisions as to compensation, etc.**

#### **Making of claims to the Ministry.**

**41.** The following provisions shall have effect with respect to every claim for compensation which is payable by the Ministry under this Act, or for the percentage mentioned in section 37:—

(a) the claim shall be in such form and shall be made and verified in such manner as may be specified by the Ministry;

(b) the claim shall state—

(i) the nature of the applicant's interest in the land or the mines and minerals or the profits with respect to which the claim is made;

- (ii) the description of the land, or the situation, nature and extent of the mines and minerals, in respect of which his interest exists;
  - (iii) all claims or estates to which his interest is subject; and
  - (iv) such other particulars as may be specified by the Ministry;
- (c) the person making the claim shall, if required so to do by the Ministry, furnish in writing such other information as is within his knowledge or can reasonably be procured by him as the Ministry may require for the consideration of the claim.

#### **Satisfaction of claims.**

#### **42. —**

- (1) Without prejudice to any award of the Lands Tribunal, where compensation under section 29 or 35, or the percentage mentioned in section 37, is payable to any person otherwise than by way of a lump sum, the Ministry may make payments to that person in respect of the compensation or percentage at such times or intervals as are reasonable having regard to the size and nature of the payments concerned.
- (2) The provisions of paragraphs 12 and 14 to 17 of Schedule 2 shall have effect with respect to the satisfaction of claims for such compensation or percentage as they have effect with respect to the satisfaction of claims for compensation which is payable under that Schedule with—
- (a) the substitution for any reference to the last-mentioned compensation of a reference to such compensation or, as the case requires, such percentage as aforesaid;
  - (b) the substitution for any reference to the compensation fund of a reference to the Ministry;
  - (c) in paragraph 16, the substitution for the reference to the date of the vesting of the land or ancillary rights of a reference to—
    - (i) in the case of compensation payable under section 29, the date of the expiration of one month after the date of the receipt by the Ministry of the purchase money, fine, rent, royalties or other sum giving rise to the profits out of which the compensation is payable, or
    - (ii) in the case of compensation payable under section 35, the date of the commencement of section 1, or
    - (iii) in the case of the said percentage, the date of the expiration of one month after the date of the receipt by the Ministry of the rent, purchase money or other net profit out of which that percentage is payable;
- and the omission of the words from "or where the compensation is payable by instalments " to "the instalment falls due ".

#### **Disposal of certain dormant or unclaimed moneys.**

#### **43. —**

- (1) Where any money received by the Ministry under any disposition of rights to or in relation to mines and minerals made, or in consideration of any disposal of minerals worked, by the Ministry may include sums which are due by the Ministry to any person—
- (a) in respect of compensation under section 29; or
  - (b) under the second proviso to section 13(3) of the Irish Land Act 1903 [M33](#) ;

and the circumstances are such that paragraph 15 of Schedule 2 as modified by section 42(2) does not apply, then, if the moneys have remained dormant or unclaimed in the hands of the Ministry for a period of six years at least before the first day of January then last past, the Ministry of Finance may direct that all such moneys, and any interest accrued thereon, and any further moneys received by the Ministry under the same disposition or in consideration of corresponding disposals shall be transferred to the Exchequer.

(2) Where, on an application to the Lands Tribunal made after the date on which any moneys were transferred to the Exchequer under section 19(1) of the Act of 1959 or, as the case may be, subsection (1), the Tribunal is satisfied that any person claiming is entitled to any payment out of those moneys, the Tribunal may order accordingly, and on receipt of such an order the Ministry of Finance shall issue out of the Consolidated Fund such sums as are necessary to provide for the payment so ordered, and shall make such payment.

(3) Where the Ministry of Finance pays any moneys to any person in pursuance of an order made under subsection (2), that Ministry shall pay to him interest upon those moneys from the date of their transfer to the Exchequer under section 19(1) of the Act of 1959 or, as the case may be, subsection (1) until the time of the payment of the moneys and interest to the person entitled thereto and shall issue out of the Consolidated Fund such sums as are necessary to provide for that interest.

(4) The rate of interest payable under subsection (3) shall be such rate as may be determined by the Ministry of Finance.

(5) In relation to sums such as are mentioned in paragraph ( b ) of subsection (1) the reference in that subsection to moneys received or any disposition made includes a reference to moneys received or a disposition made before the commencement of this section.

#### **Provisions with respect to land subject to Land Purchase Annuity.**

**44. —**

(1) This section applies where—

(a) any consideration or compensation in respect of the acquisition of land or ancillary rights is payable under this Act, or compensation for damage to land is payable under section 38, and

(b) the land in respect of which the consideration or compensation is payable is subject to an annuity under the Land Purchase Acts which is payable by the person, or one of the persons, entitled to the consideration or compensation.

(2) Where the amount of the consideration or compensation is fixed by agreement or any question with respect to that amount is referred to the Lands Tribunal,—

(a) the parties to the agreement, at least fourteen days before the payment of the consideration or compensation in pursuance thereof, or

(b) the parties to the reference, at least fourteen days before the hearing thereof,

shall serve on the Ministry of Finance notice in writing of the agreement or, as the case may be, the reference.

(3) Where a notice is served on the Ministry of Finance under subsection (2),—

(a) if that Ministry so requires in connection with an agreement, the person liable to pay the consideration or compensation shall pay, or

(b) if that Ministry so requests the Lands Tribunal in connection with a reference to the Tribunal, the Tribunal shall order the person liable to pay the compensation to pay,

to that Ministry the whole or such lesser part of the consideration or, as the case may be, the compensation payable to the person mentioned in subsection (1)( b ) as is equivalent in value to the arrears, if any, of the annuity, to be applied in discharge of the arrears.

(4) Where any notice required to be served on the Ministry of Finance under subsection (2) is not so served,—

(a) where the amount of consideration or compensation is fixed by agreement, the payment of the amount so fixed shall not operate as a good discharge to the person paying that amount of his liability to pay the consideration or compensation;

(b) where any question with respect to the amount of compensation is referred to the Lands Tribunal, the Tribunal shall adjourn the hearing of the reference until the requirements of that subsection have been complied with.

(5) The payment to the Ministry of Finance, by the person who is under a liability to pay the consideration or compensation, of any moneys under subsection (3) shall operate as a discharge of his liability to the extent of the payment.

### **General provisions as to Lands Tribunal**

#### **Power of Lands Tribunal to state consultative case for Court of Appeal.**

45. Where any proceedings are taken before the Lands Tribunal under this Act, the Tribunal may, at any stage of the proceedings, state in the form of a special case for the opinion of the Court of Appeal any question of law arising in the course of those proceedings.

#### **Enforcement of awards of the Lands Tribunal.**

46. Any award made by the Lands Tribunal under this Act may, by leave of the High Court, be filed as a judgment in terms of the award and shall thereupon have the same force and effect as a judgment or order of the court.

### **Miscellaneous**

#### **Entry on land.**

47. [F003](#) —

(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).

## **Offences.**

### **48. —**

(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 [[F024](#) 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.

## **Regulations.**

### **49. —**

(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 [M34](#) shall not apply to any prescribed fees.

(4) Regulations shall be subject to negative resolution.

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

**50. —**

(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.

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

**51. —**

(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.

**Financial provisions.**

**52.** 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.

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

**53. —**

(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.

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

**54. —**

(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—

(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.

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

55. —

(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>M35</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.

(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) [F012](#)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 [M36](#) to be paid to those former vendors.

#### **Definitions of "minerals ", "mine " and "ancillary rights ".**

**56. —**

(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) ... [F013](#) in sections 53, 54 ... [F013](#) and 60 [ [F014](#) 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) [F003](#) 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;
  - (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.

**General interpretation provisions.**

**57. —**

(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 " [F013](#) 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 [M37](#) 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;

[ [F016](#) "historic monument " has the same meaning as in the Historic Monuments Act (Northern Ireland) 1971 [M38](#) ;]

"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;

"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 [M39](#) ;

"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 " [F017](#) 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 [M40](#) , 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 [M41](#) 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.

(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.

## Savings.

58. —

(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 <sup>M42</sup>.

(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)*

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

**60.** For the removal of doubt it is hereby declared that the [<sup>F023</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.

#### **Act to bind Crown.**

**61.** 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*

#### **Short title and commencement.**

**63.** —

(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>F015</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>F017</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.

## **SCHEDULES**

### **SCHEDULE 1**

Sections 2 and 63.

#### **SUBSTANCES EXCEPTED BY SECTION 2**

- 1.** Conglomerate; grit (or gritstone), sandstone, greywacke, siltstone, mudstone, shale (excluding alum shale and oil shale), slate, limestone (including chalk), dolomite; schist (all varieties except graphite schist), gneiss; granite and porphyry (all varieties except decomposed granite in the form of clay); rhyolite (except decomposed rhyolite in the form of clay); aplite, syenite (and related rocks), basalt (and related rocks), picrite (and related rocks).
- 2.** Any superficial deposit of gravel or sand, whether of fluvioglacial, river or marine origin.
- 3.** All of the following of Quaternary Age, namely, boulder clay, laminated clay, alluvial clay and silt.
- 4.** All agricultural soil.

## SCHEDULE 2 <sup>F003</sup>

Sections 23, 29, 42, 50, 57 and 63 and Schedule 3.

### MINING FACILITIES ORDERS

#### Making of orders

#### 1. —

(1) The Ministry, where it proposes to acquire any land or any ancillary rights by means of a mining facilities order, shall give public notice of its intention to do so.

(2) A notice under sub-paragraph (1)—

(a) shall state clearly the nature of the proposal and shall specify the land which is proposed to be the subject of the acquisition or, as the case may be, the ancillary rights;

(b) shall state the time (not being less than twenty-one days from the last publication of the notice) within which objections to the proposal may be presented to the Ministry;

(c) shall name a place or places (including at least one place in the locality where the land is situated) where maps identifying the land are available for inspection at all reasonable hours; and

(d) shall be published in two successive weeks in the Belfast Gazette and in one or more than one newspaper circulating in the locality in which the land is situated;

and a document containing the substance and effect of every such notice shall be served on every person appearing to the Ministry to have an interest in the land, and there shall be attached to that document—

(i) where the notice is served on the Ministry of Finance in respect of land subject to an annuity under the Land Purchase Acts, a recently certified copy of the relevant Land Registry map showing in distinct colour the land to which it relates; or

(ii) where the notice is served on any other person, a map or plan sufficient to enable the person so served to identify the land concerned.

(3) Where the mining facilities order is proposed to contain any provisions with respect to the damming or diverting of any river or watercourse or the abstraction of water from, or the discharge of water on to any land, or the deposit of spoil on any land, which appear to the Ministry to affect any water or fishery authority, that authority shall, for the purposes of this paragraph and paragraph 2, be deemed to be a person interested in the land.

(4) In this paragraph—

"water authority " <sup>F019</sup> means any local authority supplying water under the Water Supplies and Sewerage Act (Northern Ireland) 1945 <sup>M43</sup> or any statutory water undertaking within the meaning of that Act;

"fishery authority " in relation to land any part of which is situated in the Londonderry Area (as defined by the Foyle Fisheries Act (Northern Ireland) 1952 <sup>M44</sup> ) means the Foyle Fisheries Commission and in relation to land any part of which is situated outside that Area means, or, as the case requires, also includes, the Fisheries Conservancy Board for Northern Ireland.

#### 2. —

(1) On the expiration of one month after the last publication of the notice mentioned in paragraph 1, the Ministry, after considering—

(a) all representations which have been presented to the Ministry by any interested party; and

(b) where the mining facilities order is proposed to be made in consequence of an application under section 26(5), any evidence adduced as to the impracticability of the land or ancillary rights being acquired otherwise than compulsorily for any of the reasons mentioned in paragraphs ( a ) to ( d ) of section 14(3); and

(c) any other relevant business;

and after causing a local inquiry to be held (unless no representations have been received, or any representations have been met or withdrawn or relate solely to the amount of compensation, or are representations which the Ministry is satisfied are solely of a frivolous or vexatious nature) may,—

(i) make the mining facilities order, which may contain any modifications that the Ministry thinks proper, vesting in the Ministry all or any part of the land or ancillary rights; or

(ii) determine not to make the order.

(2) If a local inquiry is held as aforesaid, the Ministry and any person interested in the land, and such other persons as the person holding the inquiry thinks fit in his discretion to allow, shall be permitted to appear, in person or by a representative, and to be heard at the inquiry, and, before making the order, the Ministry shall consider the report of the person who held the inquiry.

(3) Where the Ministry determines not to make a mining facilities order, it shall publish notice of the determination in the Belfast Gazette and in the newspapers in which the notice of the proposal to make the order appeared.

(4) A mining facilities order shall contain such provisions as the Ministry thinks necessary or expedient for carrying it into effect.

### **Validity and operation of orders**

**3. —**

(1) The following provisions of this paragraph shall have effect with respect to the validity of a mining facilities order and the date on which such an order is to come into operation, that is to say:—

(a) as soon as may be after a mining facilities order has been made, the Ministry shall publish a notice in the Belfast Gazette and in the newspapers in which notice of the proposal to make the order appeared, stating that the mining facilities order has been made, indicating the modifications, if any, that have been made in the order, inviting claims for compensation from persons entitled thereto within a period of one year from the date of publication of that notice and naming a place where a copy of the order and of any map or plan referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who appears to the Ministry to have an interest in the land to which the order relates;

(b) if any person aggrieved by a mining facilities order desires to question its validity on the ground that it is not within the powers conferred on the Ministry by this Act or that the procedure specified in this Schedule has not been complied with, he may, within one month after the publication of the notice of the making of the mining facilities order, make an application for the purpose to the High Court in accordance with rules of court, and where any such application is duly made the court—

(i) may by interim order suspend the operation of the mining facilities order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(ii) if satisfied upon the hearing of the application that the mining facilities order is not within the powers conferred by this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule not having been complied with, may quash the mining facilities order either generally or in so far as it affects any property of the applicant;

(c) subject to head ( b ), a mining facilities order or the making of such an order shall not be questioned in any legal proceedings whatsoever, and a mining facilities order shall become operative—

(i) at the expiration of a period of one month from the date on which the notice of the making thereof is published in accordance with the provisions of head ( a ); or

(ii) on the date of the dismissal by the High Court of any application made with respect to the order under head ( b );

whichever is the later;

(d) as soon as may be after a mining facilities order has become operative the Ministry shall serve on every person appearing to the Ministry to have an interest in the land to which the mining facilities order relates either a copy of the order or a notice stating that the order has become operative and naming a place where a copy of the order and of any map or plan referred to therein may be seen at all reasonable hours and may be obtained free of charge upon written request made by or on behalf of any person having an interest in the land.

(2) Where the Ministry is satisfied that good reasons exist for the failure of any person to submit a claim for compensation within the period mentioned in sub-paragraph (1)( a ), his claim may be accepted after the expiration of that period.

#### 4. —

(1) Subject to sub-paragraph (3), a mining facilities order shall operate, without further assurance "to vest in the Ministry " as from the date on which the order becomes operative (in this Schedule referred to as "the date of vesting "), for such period, if any, as may be mentioned in the order, such estate in, to or over the land to which it relates as is therein specified, discharged from all claims or estates whatsoever (except as is specified in the order), or (if the case so requires) such ancillary rights as the order specifies, discharged from all such claims or estates as aforesaid.

(2) To the extent to which compensation may be payable in accordance with the provisions of this Schedule and is not paid out of any sum such as is mentioned in section 27( b )(ii), as from the date of vesting the rights and claims of all persons in respect of any land acquired by the mining facilities order or in respect of the acquisition of ancillary rights over any land to which the order relates shall be transferred and attached to the Consolidated Fund, and shall be discharged by payments made by the Ministry; and in this Act the expression "compensation fund " means the Consolidated Fund.

(3) Where a mining facilities order relates to land the ownership of which is registered under the Local Registration of Title (Ireland) Act 1891 [M45 F020](#), the Ministry, before lodging the order with the registering authority under that Act, shall endorse upon the order the date on which it would have become operative were it not for the provisions of this sub-paragraph, and in relation to such land the date of vesting shall, notwithstanding anything in sub-paragraph (1), be the date on which the order is so lodged and that sub-paragraph shall have effect accordingly.

5. A mining facilities order, or the title created by such an order (if it relates to land the ownership of which is registered as aforesaid), shall forthwith upon lodgment of the order, be registered in the proper office for the registration of deeds or titles, as the case requires.

6. Where a mining facilities order relates to any land forming part of a holding which is subject to the future payment of an annuity under the Land Purchase Acts, it shall not be necessary for any consent or authority for the subdivision of the holding to be given under any provision of those Acts, other than the consent of the Ministry of Finance to any apportionment of the annuity.

7. Subject to the provisions of section 47, on and after the date of vesting the Ministry or any person authorised by the Ministry may enter upon and use the land, or exercise the ancillary rights, to which the mining facilities order relates.

#### 8. —

(1) Section 92 of the Lands Clauses Consolidation Act 1845 [M46](#) shall not have effect in relation to any acquisition of land by means of a mining facilities order.

(2) Where a mining facilities order applies to part only of a house, building or factory, a person having an estate in the whole thereof may, within six weeks after the date on which the order becomes operative, serve a notice on the Ministry, requiring the Ministry to acquire the remainder thereof.

(3) Where a notice is served on the Ministry under sub-paragraph (2) the Ministry shall acquire the remainder of the house, building or factory unless the Lands Tribunal determines that the acquisition of the part thereof acquired by means of the mining facilities order has not caused material detriment to the house, building or factory.

(4) Where the Ministry acquires the remainder of a house, building or factory in pursuance of sub-paragraph (3), any question as to the amount payable in respect thereof shall be determined as if that remainder had been acquired by means of a mining facilities order.

## Reference of disputed cases to the Lands Tribunal

### 9. —

(1) As soon as a mining facilities order has become operative, any question of disputed compensation arising between the Ministry and any person who has an estate in any land to which the order relates or would have such an estate if the order had not become operative shall be referred to and determined by the Lands Tribunal.

(2) Where the person entitled to compensation under this Schedule is not known or cannot be found or neglects or refuses to produce his title or to claim the compensation, or where a person claiming compensation is not absolutely entitled to the compensation or is under any disability, the Ministry may refer to the Lands Tribunal any question in connection with the compensation and that question shall be deemed to be a question of disputed compensation for the purposes of this Schedule.

(3) Where a mining facilities order relates to lands forming part of a holding which is subject to the payment of an annuity under the Land Purchase Acts, and the Ministry of Finance notifies the Ministry of its intention to bring before the Lands Tribunal any question with respect to the apportionment or redemption of the annuity, that question shall be deemed to be a dispute between the Ministry of Finance and any person claiming compensation in relation to the lands and the provisions of this Schedule shall apply as they apply to a question of disputed compensation.

(4) Any question arising as to the existence of good reasons such as are mentioned in paragraph 3(2), where the Ministry has not accepted a late claim, shall also, in default of agreement, be referred to and determined by the Lands Tribunal.

10. When any question of disputed compensation arises, the Ministry shall as soon as practicable thereafter cause to be made out such maps and schedules as may be prescribed of any lands to which the mining facilities order relates and of any other lands held therewith which, it is claimed, may be injuriously affected by the exercise of powers conferred on the Ministry by, or on any holder of a mining facilities permit under, this Act (in this Schedule referred to as "the scheduled lands"), together with the names, so far as they can be reasonably ascertained, of all persons who immediately prior to the making of the order were interested in the lands as owners or reputed owners, lessees or reputed lessees, or occupiers, and the Ministry shall deliver to the appropriate officer of the Lands Tribunal one copy of each of the maps and schedules certified by the Ministry as correct and shall publish once in each of three successive weeks in one or more than one newspaper circulating in the locality in which the lands are situated a notice stating that such documents have been delivered and the times and place at which copies of them may be inspected by any person desiring to inspect them.

## Special powers of the Lands Tribunal

### 11. —

(1) The Lands Tribunal shall have the same power of apportioning any rent-service, rent-charge, chief or other rent, payment or incumbrance as two justices have under the Lands Clauses Consolidation Act 1845 <sup>M47</sup>.

(2) Subject to the provisions of paragraph 14, the amount of compensation to be paid in pursuance of section 124 of the Lands Clauses Consolidation Act 1845 in respect of any estate in any of the scheduled lands which the Ministry has through mistake or inadvertence failed or omitted duly to make compensation for, shall be awarded by the Lands Tribunal and paid in like manner, as nearly as may be, as the same would have been awarded and paid if the claim of such estate had been delivered to the Lands Tribunal before the day fixed for the delivery of statements of claim.

(3) [<sup>F021</sup>Article 8(1) of the Land Compensation (Northern Ireland) Order 1982], in its application for the purpose of estimating the compensation to be paid under this Schedule in respect of the compulsory acquisition of land or ancillary rights, shall have effect as if after the words "powers conferred on the acquiring authority by" there were inserted the words ", or on any other person by that authority under, ".

(4) In determining the amount of any disputed compensation, the Lands Tribunal shall have regard to the extent to which any remaining and contiguous lands, belonging to the same proprietor, may be benefited by any proposed work or any proposed use of land for which the land, or any ancillary right, to which the mining facilities order relates is acquired by the Ministry.

(5) In determining the amount of any disputed compensation, the Lands Tribunal shall not award any sum of money for or in respect of any improvement or alteration made, or building erected, after the date of the giving by the Ministry of notice of its intention to acquire the land or ancillary rights compulsorily if, in the opinion of the Lands

Tribunal, the improvement, alteration, or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation; nor, in respect of any estate created after the said date in any land to which the order relates, shall any sum or money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition of the land or any ancillary rights in relation thereto.

### **Satisfaction of claims**

#### **12. —**

(1) The Ministry, on paying to any person any compensation (whether the amount thereof has been settled by agreement or determined by the Lands Tribunal), shall obtain from that person a receipt in such form as may be specified by the Ministry, which shall be prepared by and executed at the cost of the Ministry; and—

- (a) where the compensation is payable by way of a lump sum, or
- (b) where the compensation is payable by instalments and the payment being made is the final instalment thereof,

the receipt shall operate to release the compensation fund from all claims by the person giving it and all parties claiming through or under him.

(2) The Ministry shall pay the costs reasonably incurred by any person claiming compensation, to whom compensation is found due, of furnishing any statement, abstract or other evidence of title required by the Ministry to be furnished by him.

#### **13. —**

(1) Where the compensation payable (whether the amount thereof has been settled by agreement or determined by the Lands Tribunal) to any person does not exceed the sum of one hundred pounds, and the claimant makes a statutory declaration in such form as may be specified by the Ministry stating whether he claims as absolute or as limited owner, and gives prima facie evidence which satisfies the Ministry that for not less than six years immediately preceding he, or his immediate predecessor in title, has been personally or by an agent in receipt of the rents or profits, or in actual occupation, of the land in relation to which compensation is payable, the Ministry may pay to the person claiming as absolute owner the compensation payable for the interest in respect of which he claims, and, where a person claims as limited owner of any interest, the Ministry may pay the compensation payable for that interest to the trustees of the settlement under which the limited owner claims.

(2) Where any compensation not exceeding the sum of one hundred pounds is payable in respect of an estate which is subject to any mortgage or charge (not being a charge consisting of an annuity under the Land Purchase Acts), the compensation may be paid to the person entitled to the mortgage or charge, or, if there is more than one such mortgage or charge, then the person entitled to the mortgage or charge which is first in priority, and the amount so paid shall be received in reduction of the principal sum for the time being owing in respect of the mortgage or charge, notwithstanding any direction, proviso or covenant to the contrary contained in any instrument; and where the compensation is paid to a mortgagee or chargeant, the receipt given by the mortgagee or chargeant shall release the compensation fund from all claims by him and any subsequent mortgagee or chargeant, and also from all claims by the person creating the mortgage or charge and all persons claiming through or under that person.

(3) A memorandum of the amount paid under sub-paragraph (2) shall, when practicable, be endorsed on the instrument creating the mortgage or charge, and shall be signed by the person receiving the compensation, and a copy of the memorandum shall be furnished by the Ministry at its expense to all persons appearing to the Ministry to be entitled to any estate in the land subject to the mortgage or charge.

**14.** Any person claiming to be entitled to any money paid to another person pursuant to the foregoing provisions of this Schedule otherwise than in accordance with an award of the Lands Tribunal may, within six years after the payment has been made, apply for relief to the Lands Tribunal; and the Tribunal may either dismiss the application or make an award against the Ministry for the amount found due in respect of the claim, and any sum so awarded shall be a debt recoverable summarily by the Ministry from the person to whom the money was paid by it, arising at the date of the award.

**15. —**

(1) Where the amount of compensation which is payable in respect of any land to which a mining facilities order relates has been determined but for some reason it is not possible for the Ministry to obtain a good discharge therefor,—

(a) if the total amount of the compensation, or, where the compensation is payable by instalments, the first instalment thereof, is or exceeds two hundred pounds but does not exceed one thousand pounds, the Ministry shall pay the money into the county court;

(b) if the total amount of the compensation or, where the compensation is payable by instalments, the first instalment thereof, exceeds one thousand pounds, the Ministry shall pay the money into the High Court;

(c) if the compensation is payable by instalments and the amount of the first instalment is less than two hundred pounds, the provisions of head ( a ) shall apply to that and any subsequent instalments when the amount of those instalments aggregates two hundred pounds;

and if any such compensation or the aggregate of any instalments thereof is less than two hundred pounds and has remained in the hands of the Ministry for a period of six years from the date on which the compensation or the first instalment thereof became payable, head ( a ) shall apply to that compensation or those instalments and to all other corresponding sums falling due to the same person as if the words "is or exceeds two hundred pounds but " were omitted.

(2) Money paid into the county court or, as the case may be, the High Court under sub-paragraph (1) shall, subject to county court rules or rules of court, be dealt with according to the orders of the court.

(3) The payment of the compensation in the manner provided by sub-paragraph (1) shall operate to discharge the compensation fund from all claims and interests in respect of which the compensation is payable.

**16. —**

(1) The Ministry shall pay interest upon the compensation money from the date of the vesting of the land or ancillary rights in respect of which, or in consequence of the acquisition of which, the compensation is payable, or, where the compensation is payable by instalments, upon each instalment from the expiration of one month after the date when the instalment falls due, until the time of the payment of the money and interest to the party entitled thereto, or, where such compensation is paid into court, then until the sum with such interest is paid into court accordingly.

(2) The rate of interest payable under this paragraph shall be such rate as may be determined by the Ministry of Finance.

**17.** In this Schedule "instalment " includes any rent or other periodical payment.

*Schedule 3—Amendments*

*Schedule 4—Repeals*