



# Mineral Development Act (Northern Ireland) 1969

## 1969 CHAPTER 35

### PROSPECTING

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

- (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

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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.

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

- (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.

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

- (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

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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.

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

- (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;

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- (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.

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