

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Mineral Development Act (Northern Ireland) 1969. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2<sup>F1</sup>

#### MINING FACILITIES ORDERS

**F1** 1964 c.28 (NI)

#### 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—

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- (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 <sup>F1</sup>, 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.

**F1** 1970 c.18 (NI)

- 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 sub-division of the holding to

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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 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.

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