

# MINERALS DEVELOPMENT ACT, 1979

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## SCHEDULE

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1979 17 An Act to make better provision for the development, management and control of the mineral resources of the state and for regulating in accordance with the principles of social justice the exercise of private rights in respect of minerals with a view to reconciling their exercise with the exigencies of the common good and for that purpose to provide for vesting in the Minister for Industry, Commerce and Energy the exclusive right of working, selling or otherwise disposing of minerals which are not in course of development, subject to payment of fair compensation, to provide for the development of such minerals whether by the minister or under lease or licence, to amend the Minerals Development Acts, 1940 And 1960, and to provide for other related matters.

[20th June, 1979]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Short title, collective citation and construction. 1.—(1) This Act may be cited as the Minerals Development Act, 1979.

(2) The Minerals Development Acts, 1940 and 1960 and this Act may be cited together as the Minerals Development Acts, 1940 to 1979.

(3) The Minerals Development Acts, 1940 and 1960 and this Act shall be construed together as one Act.

1979 17 2

Interpretation. 2.—(1) In this Act, except where the context otherwise requires—

"the Act of 1940" means the Minerals Development Act, 1940;

"the Court" means the High Court or the Supreme Court;

"excepted minerals" means minerals which by virtue of section 14 are excepted from the application of section 12;

"the Minister" means the Minister for Industry, Commerce and Energy;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"State minerals" includes (without prejudice to the generality of the meaning assigned by section 5 of the Act of 1940) an exclusive right of working minerals vested in the Minister under section 12 of this Act;

"working" in relation to minerals, includes digging, searching for, mining, getting, raising, taking, carrying away, treating and converting such minerals and the sale or other disposal of such minerals and cognate words shall be construed accordingly.

(2) A reference in this Act to minerals in land shall be taken to include reference to minerals on or under the surface of land.

(3) A reference in this Act to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

1979 17 3

Minerals. 3.—(1) In this Act, "minerals" has the meaning assigned by section 3 of the Act of 1940 as amended by section 69 of the Petroleum and Other Minerals Development Act, 1960, and by subsection (2) of this section.

(2) In the Act of 1940 and this Act "minerals" shall not include stone, gravel, sand or clay except to the extent that any such substance falls within the list of minerals mentioned in the Schedule to the Act of 1940.

1979 17 4

Membership of Mining Board. 4.—Each of the two ordinary members of the Mining Board established by section 33 of the Act of 1940 shall be a person who is a property arbitrator under the Property Values (Arbitrations and Appeals) Act, 1960.

1979 17 5

Witnesses. 5.—A person who—

( a ) having been directed under section 35 of the Act of 1940 to attend before the Mining Board, and having had tendered to him any sum in respect of the expenses of his attendance which a witness summoned to attend before the High Court would be entitled to have tendered to him, without just cause or excuse disobeys the direction,

( b ) being in attendance before the Board, refuses to take the oath on being required by the Board to do so, refuses to answer any question which the Board may require him to answer or refuses to produce any document or thing which the Board may direct him to produce, or

( c ) does any other thing in relation to the proceedings before the Board which, if done in relation to proceedings before the High Court by a witness in that Court, would be contempt of that Court,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding six months or to both.

1979 17 6

Persons under disability or unascertained. 6.—(1) For all the purposes of this Act an infant, a person of unsound mind or a person of weak mind who is temporarily incapable of managing his affairs may be represented by the guardian or committee of his estate or, where there is no guardian or committee, by such person as may be appointed by the High Court or, for the purpose of proceedings before the Mining Board, by the Board.

(2) Where, in any proceedings under this Act, the Court or, in the case of proceedings before the Mining Board, the Board deems it necessary or expedient to do so, the Court or Board may appoint a person to represent, for the purposes of such proceedings, the interest of any person who is not found or ascertained.

1979 17 7

Assessors. 7.—Subject to rules of court, the Court may at its discretion appoint assessors to assist the Court in any proceedings under this Act, and the remuneration of assessors shall be determined by the Court and shall be paid as part of the expenses of the administration of this Act.

1979 17 8

Half-yearly report to Oireachtas. 8.—A report of the Minister under section 77 of the Act of 1940 shall include particulars of all leases and licences granted under this Act and for the time being in force and the total amount of all moneys collected by the Minister under or by virtue of any such lease or licence.

1979 17 9

Regulations. 9.—(1) The Minister may make regulations for any purpose of this Act or in relation to any matter referred to in this Act as prescribed.

(2) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

1979 17 10

Expenses. 10.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

1979 17 11

Repeals. 11.—(1) The enactments mentioned in the Schedule are hereby repealed to the extent specified in the third column.

(2) The amendment of section 18 of the Act of 1940 effected by subsection (1) shall be subject to the provisions of any lease or licence.

1979 17 12

Exclusive right of working minerals vested in Minister. 12.—The exclusive right of working minerals is hereby vested in the Minister, except as provided in this Part.

1979 17 13

Saver for prospecting rights of mineral owners. 13.—Without prejudice to the provisions of Part II of the Act of 1940 (which relates to prospecting for unworked minerals), section 12 shall not operate to prevent the owner of an estate or interest in minerals in any land from prospecting for such minerals, that is to say, carrying out any activities for the purpose of ascertaining the character, extent or value of such minerals and taking and removing reasonable quantities of such minerals for analysis, test, trial or experiment where such prospecting is conducted otherwise than as part of the operation of working those minerals if, apart from that section, he would be entitled to conduct such prospecting but such right of prospecting shall not apply in relation to minerals which are being worked by the Minister or are the subject of a State mining lease or a licence under section 17 (1) or be so exercised as to interfere with such working or with the lawful operations of the lessee or licensee.

1979 17 14

Exception for existing development. 14.—(1) Subject to section 15 (5), section 12 shall not apply to minerals of any description in any land if, at the 15th day of December, 1978, a person was lawfully working or developing a mine of such minerals.

(2) For the purpose of subsection (1) a person shall be deemed to be developing a mine if, on an application under section 15, he proves that before the date mentioned in that subsection he had decided to do so in accordance with plans based upon a comprehensive study indicating a reasonable prospect of commercial development and that his decision stood at the passing of this Act.

1979 17 15

Registration of excepted minerals. 15.—(1) A person entitled to a right of working minerals which, by virtue of section 14, are excepted from the application of section 12 may apply to the Mining Board in such manner and within such time as may be prescribed for the registration of such minerals as excepted minerals.

(2) Notice of the application shall be served by the Mining Board on the Minister and on such persons as may appear to the Board to have an interest in the proceedings.

(3) Where, on an application under this section, the Mining Board finds that minerals of any description in any land are excepted from the application of section 12 the Board shall register such minerals as excepted minerals.

(4) A person whose application is rejected by the Mining Board shall have the right to apply to the High Court for an order directing the Board to register the minerals as excepted minerals and if the Court is satisfied that, by virtue of section 14, the minerals are excepted from the application of section 12 the Court may direct the Board to register them accordingly.

(5) Where an application under this section in respect of any minerals is rejected or is withdrawn or in default of application to the Board within the prescribed time or to the Court

within such time as may be provided in accordance with rules of court section 12 shall be deemed to have had effect in respect of such minerals as if section 14 had not been enacted.

1979 17 16

Cancellation of registration. 16.—(1) Where, at any time after the registration of minerals as excepted minerals, the Mining Board is satisfied, on the application of the Minister, that the minerals are not being worked or are not being worked efficiently the Board shall cancel the registration.

(2) Notice of the application shall be served by the Mining Board on such persons as may appear to the Board to have an interest in the proceedings.

(3) If any person is aggrieved by the cancellation of the registration he shall have the right to apply to the High Court to have the cancellation annulled and the Court, if it so thinks proper, may order accordingly.

(4) If, on an application under this section, the registration of minerals as excepted minerals is cancelled section 12 shall thereupon have effect as if section 14 did not apply to such minerals.

1979 17 17

Leases and licences. 17.—(1) Subject to section 18 the Minister may grant to any person a licence to work any State minerals, without prejudice to his power to grant a lease in respect of such minerals under Part IV of the Act of 1940.

(2) The references in Part IV of the Act of 1940 to a demise of minerals shall be construed as including the grant of a right to work minerals.

(3) The following provisions of the Act of 1940 shall apply to a licence under subsection (1)—

( a ) the provisions of Part III relating to a State acquired minerals licence;

( b ) section 26 (which refers to the grant of a State mining lease).

(4) A reference in section 13 of the Act of 1940 (which empowers the Minister to enter into an undertaking to grant a State mining lease) to a State mining lease shall be construed as including reference to a licence under subsection (1).

(5) The conditions attaching to a lease or licence may, with the concurrence of the Minister for Finance, include a condition giving the Minister the right to take a participating interest in the working of the minerals.

1979 17 18

Notice of proposal to exercise powers. 18.—(1) Where the Minister proposes—

( a ) to work any minerals which are State minerals by virtue of section 12, or  
( b ) to give an undertaking under section 13 of the Act of 1940 to grant a lease or licence to work any such minerals, or  
( c ) to grant any such lease or licence, otherwise than in pursuance of such an undertaking, he shall publish in two successive weeks, in *Iris Oifigiúil* and in at least one national daily newspaper, and shall also, so far as practicable, give to every person who may appear to him to have an estate or interest in the minerals notice of his proposal and shall give to any such person a reasonable opportunity of making representations to the Minister concerning such proposal.

(2) A notice under subsection (1) may be given by registered post or in such other manner as the Minister thinks fit.

(3) The Minister may refer any representations to the Mining Board and shall do so if any person making representations so requires by application to the Minister in the prescribed time and manner and the Board shall consider the representations so referred to it and shall for that purpose hold an inquiry at which the following persons shall be entitled to be heard, either in person or by solicitor or counsel, and to adduce evidence—

( a ) persons who duly made representations;  
( b ) the Minister;  
( c ) any person claiming to have an estate or interest in any minerals which are the subject of the Minister's proposal;  
( d ) any other person in respect of whom it appears to the Board that he would be substantially affected by the carrying out of the Minister's proposal.

(4) The Board shall furnish its report on the inquiry to the Minister and a copy to every person who made representations and who so requests.

1979 17 19

Notice to persons entitled to compensation. 19.—Where the Minister commences to work, or grants a lease of or a licence to work any minerals which are State minerals by virtue of section 12 he shall, as soon as may be, publish in two successive weeks in *Iris Oifigiúil* and in at least one national daily newspaper notice thereof indicating the right of any person entitled to any estate or interest in the minerals to claim compensation and he shall also, so far as practicable, give like notice to every person who has claimed to be entitled to any estate or interest in the minerals under section 18 (1).

1979 17 20

Persons entitled to compensation. 20.—A right to compensation under this Act shall vest in every person who was entitled to any estate or interest in minerals immediately before the date on which the exclusive right of working those minerals vested in the Minister under section 12 and the said right to compensation shall devolve and may be disposed of accordingly.

1979 17 21

Payment of compensation. 21.—Compensation in respect of a right vested in the Minister under section 12 shall be paid by the Minister to every person entitled to such compensation.

1979 17 22

Claims for compensation. 22.—(1) In default of agreement, any question arising as to the entitlement of any person to compensation under this Act or as to the amount of such compensation shall be settled by the Mining Board.

(2) A person who is aggrieved by the terms of settlement of any such question shall have the right to apply to the High Court to determine the question.

(3) An award or the decision of the Mining Board under this section may, by leave of the High Court, be enforced as a judgment or order to the same effect and, where leave is so given, judgment may be entered in terms of the award or decision.

(4) Where, at any time after the settlement by the Mining Board or the determination by the Court of a question arising in reference to a right vested under section 12, the Board or Court is satisfied, on the application of a person having a right to compensation by reason of such vesting, that—

( a ) circumstances have subsequently arisen which were not anticipated and taken sufficiently into account in that settlement or determination, and

( b ) fair and reasonable compensation for the applicant has not been provided.

the Board or Court shall consider the application and may revise the settlement or determination in such manner as justice may require and the preceding provisions of this section shall have effect accordingly.

1979 17 23

Assessment of compensation. 23.—(1) Compensation payable in respect of any right vested under section 12 shall be assessed on the basis of what would be fair and reasonable having regard to all the circumstances of the case including such proportion of the net profits arising in consequence of working of the minerals by the Minister, or by a lessee or licensee under section 17, as is attributable to those minerals as they existed in the land in their natural condition prior to such working.

(2) Compensation shall be determined in the form of periodical, payments unless the Mining Board or the Court, as the case may be, is satisfied that such form of compensation would not of itself be appropriate and in such case the Board or the Court may, in its discretion, award compensation either in the form of a lump sum payment or partly in that form and partly in the form of periodical payments.

1979 17

SCHEDULE



Section 11.

## REPEALS

Number and year	Short Title	Extent of Repeal
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No. 31 of 1940.	Minerals Development Act, 1940.	Sections 14, 15, 16, 17. In section 18, the words "by virtue of a minerals acquisition order". In section 33 (2), from "and one of the ordinary members" to the end of the subsection. In section 33 (5), the words "by subsection (2) of this section".
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Sections 35 (2), 38, 39, 68, 70.

## ACTS REFERRED TO

Minerals Development Act, 1940	1940, No. 31
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Petroleum and Other Minerals Development Act, 1960	1960, No. 7
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Property Values (Arbitrations and Appeals) Act, 1960	1960, No. 45
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