

# **MINERALS ACT 1986**

(Chapter 46)

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Received Royal Assent: 10 October 1986

Passed: 21 October 1986

**GENERAL NOTE: The maximum fines in this Act are as increased by the Criminal Justice (Penalties, Etc.) Act 1993 s 1.**

**AN ACT**

**to facilitate the discovery and working of minerals; and for connected purposes.**

**PART I  
MINERALS**

*Vesting of mines and minerals in the Department of Trade and Industry*

**1 Vesting of mines and minerals in the Department**

(1) Subject to Schedule 1, the property in all minerals existing in natural condition in the Island, and in all mines for the working of such minerals, is hereby vested in the Department of Trade and Industry (in this Act referred to as 'the Department').

[Subs (1) amended by SD321/96.]

(2) The mines and minerals vested in the Department by virtue of subsection (1) shall so vest free from all claims or estates whatsoever and notwithstanding any provision in any

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other enactment.

### *Prospecting*

## **2 Power of Department to prospect or grant prospecting licences**

(1) Where it appears to the Department that any mines and minerals vested in the Department may be situated in any land, the Department, 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 Department and subject to subsections (3) and (4),-

- (a) subject to sections 24 and 32(2), 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 and other materials for analysis, test, trial or experiment; or
- (b) grant to any person, subject to and in accordance with the following provisions of this section and section 3, a licence (in this Act referred to as 'a prospecting licence') authorising that person to do anything that the Department 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 the Crown, a Board of Tynwald, a Statutory Board or the Manx Museum and National Trust, 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 the Crown or such Board or Trust as the case may be.

(3) The Department, not less than 3 months before exercising the right conferred by paragraph (a) or the power conferred by paragraph (b) of subsection (1), shall serve notice of its intention to do so on-

- (a) 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;
- (b) every Board of Tynwald, Statutory Board or other public body which, in the opinion of the Department, will be materially affected by, or interested in, any activity likely to be carried on in the exercise of the right or in consequence of the exercise of the power; and
- (c) 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 Department serves under subsection (3), 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 by the person on whom such a notice was served, before the expiration of a period of 2 months from the date of the service of the notice on him or such longer period as the Department may in any case permit in writing.

(5) The Department shall not grant a prospecting licence unless it is satisfied that adequate arrangements have been or will be made by the applicant to pay, in addition to any compensation which is or may become payable under sections 19, 20 and 21, a reasonable

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sum of money to every owner of an estate in possession of land which the applicant intends to enter for the purposes of searching for mines and minerals.

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

A prospecting licence may be granted for such consideration, if any, as may be agreed upon between the Department, with the concurrence of the Treasury, and the applicant, and shall be for such period and upon such other terms and conditions as may be specified in the licence.

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

(1) Without prejudice to any power conferred under section 2(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 Department may approve) all minerals worked by him and shall keep such records as the Department may require of all minerals worked or sold or otherwise disposed of by him, and shall produce such records for inspection by any person authorised by the Department, when so required.

(3) The licensee shall keep the Department 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.

*Working or disposal of mines and minerals vested in the Department*

### **5 Power of Department to work mines and minerals**

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

### **6 Effect of certain enactments**

Paragraph 1(1)(c) of Schedule 1 to the Forestry Act 1984 and paragraph 1(3) of Schedule 1 to the Government Departments Act 1987 shall not apply to the disposal of mines and minerals vested in the Department.

[S 6 amended by Statute Law Revision Act 1989 Sch 1.]

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

Where mines and minerals in any land are vested in the Department, the Department may-

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- (a) dispose of its full estate in them if, but only if, it has the approval of Tynwald, or
- (b) dispose of any lesser estate in them if, but only if, it has the concurrence of the Treasury, or, where such lesser estate exceeds a term of 21 years, the approval of Tynwald.

## **8 Mining leases**

Subject to sections 7 and 11 the Department 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 Department.

## **9 Mining licences**

Subject to sections 7 and 11, the Department 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 Department.

## **10 Mining permissions**

(1) Where mines and minerals of any description are vested in the Department, 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 Department 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 Department,

the Department, 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.

## **11 Conditions of disposal**

(1) The Department, not less than 3 months before exercising any power of working mines and minerals under section 5 or any power of selling or leasing under section 7 or 8, shall serve notice of its intention to do so on-

- (a) 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;
  - (b) every Board of Tynwald, Statutory Board or other public body which, in the opinion
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of the Department, will be materially affected by any activity likely to be carried on in connection with the working of those mines and minerals; and

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

(2) Where the Department serves under subsection (1), 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 by the person on whom such a notice was served, before the expiration of a period of 2 months from the date of the service of the notice on him or such longer period as the Department may in any case permit in writing.

(3) Any disposal of minerals worked under section 5, or any sale of an estate in mines and minerals under section 7, or any grant of a mining lease, mining licence or mining permission, shall be for such consideration as may appear to the Department 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 Department, with the concurrence of the Treasury 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.

(4) The Department shall not sell any estate in mines and minerals under section 7, nor grant a mining lease or mining licence unless it is satisfied that adequate arrangements have been or will be made by the purchaser or grantee to pay, in addition to any compensation which is or may become payable under sections 19, 20 and 21, a reasonable sum of money (whether by lump sum payment or periodical payments) to every owner of an estate in possession of land if such purchaser or grantee intends to enter onto the surface of such land for the purposes of working mines and minerals or for any purpose incidental thereto.

## **12 Rights of entry and user of land containing mines and minerals vested in the Department**

(1) Subject to sections 24 and 32(2), for the purpose of working any mines and minerals under section 5 or for any purpose incidental thereto the Department 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 Department sells an estate in mines and minerals or where mines and minerals are the subject of a mining lease, the Department 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 Department 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 the Crown, a Board of

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Tynwald, a Statutory Board or the Manx Museum and National Trust, 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 the Crown or such Board or Trust as the case may be.

#### *Ancillary mining facilities*

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

(1) Subject to section 14, where it appears to the Department that, for the purpose of facilitating the working of any mines and minerals (whether vested in the Department or not), it is necessary or expedient to acquire any land or any ancillary right, the Department 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 Department 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 Department that it is necessary or expedient to do so to facilitate searching for mines and minerals by-

- (a) the Department, 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 such 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.

### **14 Provisions supplemental to section 13**

(1) Section 13 shall not authorise the compulsory acquisition of any land, or of ancillary rights over any land, which is the property of the Crown, a Board of Tynwald, a Statutory Board or the Manx Museum and National Trust.

(2) The powers conferred by sections 13 to 16 shall not be exercised for the purpose of facilitating the working of any exempted 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 an exempted substance.

(3) A mining facilities order shall not come into operation until it has been approved by Tynwald.

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## **15 Exercise by Department of acquired mining facilities**

The Department may make use of any acquired mining facility-

- (a) where it is acquired under section 13(1), for the purpose of facilitating the working of, or
- (b) where it is acquired under section 13(2), for the purpose of facilitating searching for,

any mines and minerals vested in the Department.

## **16 Mining facilities permits**

(1) Without prejudice to subsection (4) and subject to subsection (6), the Department may grant to any person who-

- (a) under any mining lease or mining licence granted by the Department, 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 section 13(2) 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 Department 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 Department 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 Department 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 Department, but the Department shall not acquire any land or ancillary rights under section 13 by agreement, or make a mining facilities order, in consequence of such an application, unless the Department 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.

(6) The Department shall not grant a mining facilities permit unless it is satisfied that adequate arrangements have been or will be made by the applicant to pay, in addition to any compensation which is or may become payable under sections 19, 20 and 21, a reasonable sum of money to every owner of an estate in possession of land which is the subject of a mining facilities order.

## **17 Conditions of mining facilities permits**

A mining facilities permit shall be granted for such consideration, if any, as may be



agreed upon between the Department 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 Department sums equivalent to the amounts of-
  - (i) any costs incurred by the Department 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 Department 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, any sum which is paid to the Department under sub-paragraph (ii) may be held by the Department for the purpose of being applied by it in paying the consideration or compensation in question.

## **18 Surrender of acquired mining facilities**

(1) The Department, 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.

### *Damage caused by mining operations*

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

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

- (a) by searching for, working, or doing anything incidental to the searching for or working of, mines and minerals vested in the Department, or
- (b) by exercising a right of entry or user of land conferred by or under this Act,

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

(2) 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 High Court.

(3) Compensation under this section in respect of damage to land shall not be payable to

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any person from whom any land has, or ancillary rights over any land have, been acquired by the Department under this Act and to whom any compensation is payable under any enactment by the Department in respect of injurious affection of the first-mentioned land.

(4) 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) 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) 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 the Acquisition of Land Act 1984.

(7) 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 High Court so directs, shall, pay that amount into court.

(8) Money paid into court under subsection (7) shall, subject to Rules of Court, be dealt with according to the orders of the court.

## **20 Powers of High Court to prohibit, restrict or terminate certain operations**

(1) Where, on application made by the owner or occupier of any land, the High Court is satisfied-

- (a) that operations by the Department under section 2, 5 or 15 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 Court may make an award prohibiting, restricting or terminating operations on the land by the Department 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 19 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
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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 19(5) is given by the Department or, as the case may require, the licensee or grantee.

(2) Where, on application made by the owner or occupier of any land, the High Court 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 Court may, upon such terms (including terms as to the payment of compensation under section 19 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 subsection (1)(b) 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 payment under any enactment in respect of injurious affection of the land.

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

(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 High Court is satisfied that it is not reasonably practicable to obtain a right to such support by private arrangement, the Court 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 an ancient monument and is, in pursuance of any enactment, under the guardianship or protection of the Manx Museum and National Trust, the Manx Museum and National Trust shall be deemed to be entitled to make an application under this section.

*General provisions as to compensation, etc.*

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## **22 Making of claims to the Department**

The following provisions shall have effect with respect to every claim for compensation which is payable by the Department under this Act-

- (a) the claim shall be in such form and shall be made and verified in such manner as may be specified by the Department;
- (b) the person making the claim shall furnish in writing such information as is within his knowledge or can reasonably be procured by him as the Department may require for the consideration of the claim.

*General provisions as to High Court*

## **23 Enforcement of awards of the High Court**

(1) Any award made by the High Court under this Act shall have the same force and effect as an execution order granted by the court.

(2) The costs of the parties in any proceedings before the High Court under this Act shall be in the discretion of the Court which may by its award direct to and by whom and in what manner those costs or any part thereof shall be paid.

*Miscellaneous*

## **24 Entry on land**

(1) Where the Department or any other person intends to enter on or into any land in the exercise of any right conferred-

- (a) by or under section 2(1) or section 12(1) or (2), or
- (b) by a mining facilities order or a mining facilities permit,

the Department 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 1 months notice of the intention, where the entry is for the purpose of any prospecting operations;
- (ii) at least 2 months 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 2(1), or
- (b) any operations proposed to be conducted in the exercise of ancillary rights acquired under section 13(2) or authorised to be used by a mining facilities permit granted under section 16(2).

## **25 Offences**

(1) A person shall be guilty of an offence if, without lawful authority, he knowingly either

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works or does anything for the purpose of working any mines and minerals vested in the Department.

(2) A person shall be guilty of an offence if he knowingly or recklessly works or does anything for the purpose of working any mines and minerals otherwise than in accordance with the terms and conditions of any licence, lease or permission granted by the Department.

(3) 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 2(1) or section 12(1) or (2), or
- (b) by a mining facilities order or a mining facilities permit.

(4) A person who is guilty of an offence under this section shall, in respect of each offence, be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 6 months or to both, and where the contravention is repeated or continued after conviction to a further fine not exceeding £500 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.

(5) No proceedings for an offence under subsection (1) or (2) may be instituted except-

- (a) by the Department; or
- (b) by, or with the consent of, the Attorney General.

## **26 Regulations**

(1) The Department may make regulations for carrying the provisions of this Act into effect.

(2) Regulations under this section shall not take effect until they have been approved by Tynwald.

## **27 Register of notices**

The Department shall prepare a register containing particulars of all notices published by the Department under 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 Department until the expiration of a period of five years from the last date of publication of that notice.

## **28 .....**

[S 28 repealed by Statutory Boards Act 1987 Sch 4.]

## **PART II MISCELLANEOUS**

## **29 Department to be given notice of mineral prospecting or development**

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## **work and of shafts, boreholes, etc**

(1) Where a person proposes-

- (a) to undertake mineral prospecting or development work; or
- (b) for any other purpose to sink a shaft, borehole or well or make an excavation intended to reach a depth of more than fifty feet below the surface or to extend any existing shaft, borehole, well or excavation (whether or not it has already reached that depth) to reach any greater depth beyond fifty feet,

he shall, before commencing the work or, as the case may be, the sinking, excavation or extension, serve on the Department at least two weeks' notice in writing of his intention to do so or such longer notice as may be prescribed by regulations.

(2) A person who undertakes mineral prospecting or development work shall keep a record thereof, and a person who, for any other purpose, sinks a shaft, borehole or well or makes an excavation intended to reach a depth of more than fifty feet below the surface or extends any existing shaft, borehole, well or excavation as aforesaid shall, unless the Department in writing otherwise directs, keep a journal thereof, and every such person shall keep for a period of not less than two months or such longer period as the Department may so direct-

- (a) such specimens of minerals as may have been obtained in the course of the work, or
- (b) such specimens of the strata passed through as may have been obtained in the course of the sinking or extension of the shaft, borehole or well, or the making or extension of the excavation,

either as cores or cuttings, as the Department may direct.

(3) A person authorised in writing by the Department shall be entitled at all reasonable times to do all or any of the following things, that is to say:-

- (a) have free access to-
    - (i) all parts of the place where any mineral prospecting or development work is being undertaken, or
    - (ii) any shaft, borehole, well or excavation such as is mentioned in subsection (1), or
    - (iii) any specimen such as is mentioned in subsection (2);
  - (b) inspect and take copies of records of such work or journals of such shafts, boreholes, wells or excavations;
  - (c) require the person undertaking any such work or sinking or extending any such shaft, borehole or well, or making or extending any such excavation, to supply such other information (including, where the circumstances permit, information as to the proposed conduct of the operations and as to the grade of deposit, and estimated reserves, of minerals) as such authorised person may consider reasonably necessary;
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- (d) inspect all specimens obtained or kept as mentioned in subsection (2);
- (e) take samples of any such specimens.

(4) If any person undertaking any such work or sinking or extending any such shaft, borehole, or well, or making or extending any such excavation as aforesaid serves notice in writing on the Department requesting the Department to treat as confidential any copies of records or journals or any specimens of minerals or strata taken by, or any information supplied to, an authorised person under subsection (3), the Department until the expiration of such period not exceeding five years from the date on which the copies or, as the case may be, the specimens were so taken, or the information was so supplied, as may be specified in the notice, shall not allow the copies or specimens to be shown, or the information to be disclosed, to any person who is not an officer or agent of the Department or is not authorised under subsection (3) except with the consent of the first-mentioned person.

(5) The period mentioned in subsection (4) may, by notice served as so mentioned before the expiry of that period requesting that the period be extended, be extended for an additional period not exceeding five years, but no further.

(6) If any person undertaking any mineral prospecting or development work or sinking or extending any shaft, borehole or well, or making or extending any excavation, such as is mentioned in subsection (1)-

- (a) fails to comply with the obligations imposed by or under this section, or
- (b) in any record or journal required to be kept, or in supplying any information, under this section knowingly or recklessly makes any entry or statement which is false in a material particular, or
- (c) wilfully obstructs a person authorised by the Department in the exercise of any of the powers conferred on him by this section,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

(7) Where any person contracts to undertake on behalf of any other person mineral prospecting or development work or to sink or extend a shaft, borehole or well or make or extend an excavation and the execution of the work is under the control of the contractor, references in this section to a person undertaking the work or sinking or extending the shaft, borehole or well or making or extending the excavation shall, where those references occur in subsection (1), be construed as references to the contractor and, where they occur in other provisions of this section, be construed as including references both to the contractor and that other person.

(8) In this section-

- (a) any reference to mineral prospecting or development work includes a reference to geophysical or geochemical investigations of any kind, whether conducted by means of boring or otherwise howsoever;
  - (b) any reference to a record, in relation to mineral prospecting or development work which includes the sinking or extension of a shaft, borehole or well, or the making or extension of an excavation, intended to reach a depth of more than fifty feet
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includes a reference to a journal of that sinking or making or extension; and

(c) 'excavation' includes 'tunnel'.

### 30 Definitions of 'minerals', 'mine' and 'ancillary rights'

(1) In this Act '**minerals**' includes all mineral bearing and other substances (not being vegetation or water) naturally occurring in land, whether obtainable by underground or by surface working; but does not include petroleum.

(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) 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 and other materials 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) and other materials 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;
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- (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, cables and pipes;
- (k) a right to divert a railway or any 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 a natural amenity.

### **31 General interpretation provisions**

(1) In this Act-

**'acquired mining facility'** has the meaning given by section 13(3);

**'ancient monument'** has the same meaning as in the Manx Museum and National Trust Act 1959;

**'the Department'** has the meaning given by section 1(1);

**'exempted substances'** has the meaning given by paragraph 1 of Schedule 1;

**'the Island'** includes the sea bed and subsoil under the territorial waters of the Island and the word **'land'** shall be construed accordingly;

**'mining facilities order'** has the meaning given by section 13(3);

**'mining facilities permit'** has the meaning given by section 16(3);

**'mining lease'** has the meaning given by section 8;

**'mining licence'** has the meaning given by section 9;

**'mining permission'** has the meaning given by section 10(1);

**'notice'** means notice in writing;

**'petroleum'** has the meaning assigned to it by section 9 of the Petroleum Act 1986;

**'prospecting licence'** has the meaning given by section 2(1)(b);

**'searching for'**, in relation to any mines and minerals, includes ascertaining the character, extent or value of those mines and minerals;

**'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,

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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 any estate in minerals alone;
- (c) any reference to mines and minerals vested in the Department (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 Department by virtue of any other enactment, and to mines of such minerals;
- (d) any reference to mines and minerals vested in the Department 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 paragraph 5(1) of Schedule 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 30(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 and other materials 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.

## **32 Savings**

(1) Any power to do anything which is conferred by a lease, licence, permission or permit granted under this Act-

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- (a) shall be subject to any provision of any enactment to the extent that it prohibits, and
- (b) shall not be exercised otherwise than in accordance with such provision which restricts, regulates or otherwise applies to,

the doing of that thing; and for the purposes of this subsection any reference to such provision of any enactment includes a reference to any prohibition, requirement, direction, permission or consent imposed or given under such enactment.

(2) 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.

(3) Nothing in this Act shall prejudice the operation of the Town and Country Planning Acts 1934 to 1981.

(4) Except as expressly applied by this Act, the Acquisition of Land Act 1984 shall not apply to any acquisition of land pursuant to this Act.

(5) Notwithstanding the provisions of this Act, the occupier of any land shall continue to have the right to dig and raise stone and slate on his land for the purpose of building and making other improvements on such land.

(6) Notwithstanding the provisions of this Act, the Department of Transport has the right to excavate, dredge or to undertake any other operations on, in or under the sea bed for navigational or harbour purposes.

[Subs (6) added by Territorial Sea (Consequential Provisions) Act 1991 Sch 1 and amended by SD486/94.]

### **33 Financial**

(1) Any expenses incurred by the Department under this Act shall be defrayed out of money provided by Tynwald.

(2) All moneys received by the Department pursuant to this Act shall form part of the General Revenue.

(3) Notwithstanding subsections (1) and (2), any moneys received by the Department under any security given for the fulfilment of the grantee's obligations under any lease, licence or permission shall be applied by the Department in rectifying any breach of the terms and conditions of that lease, licence or permission, and any balance remaining shall form part of the General Revenue.

(4) This section shall apply for the purposes of the Petroleum Act 1986 as it applies for the purposes of this Act.

### **34 .....**

[S 34 repealed by Statute Law Revision Act 1992 Sch 2.]

### **35 Act to bind Crown**

Except as otherwise expressly stated, this Act shall bind the Crown.

### **36 Short title and commencement**

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This Act may be cited as the Minerals Act 1986 and shall come into operation on such day as the Department may by order appoint and different days may be appointed for different provisions and for different purposes.

[ADO (whole Act) 1/4/1987 (GC114/87).]

## **Schedule 1**

### **PART I EXEMPTED SUBSTANCES**

1. Section 1(1) shall not apply to the following substances (in this Act referred to as 'exempted substances') or any mines for the working of such substances-

- (a) superficial sand;
- (b) peat;
- (c) soil at the surface of the ground.

2. The Department may by order with the approval of Tynwald amend the list of substances contained in paragraph 1.

### **PART II EXCEPTIONS TO SECTION 1(1)**

#### *Exception of mines and minerals already vested in the Department*

1. Section 1(1) shall not apply to any mines and minerals which, immediately before the commencement of that section, were vested in the Department.

#### *Exception of existing tenants of Department*

2. Section 1(1) shall not affect any person who, at the commencement of that section, has a contract of tenancy with, or a licence from the Department under which he is lawfully working or developing a mine for the working of minerals of any description or descriptions in any land which is the subject of that tenancy or licence.

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

3. (1) Section 1(1) shall not apply to mines or minerals in any land which was not subject to the provisions of section 16 of the Act of Settlement 1704 until the expiry of 27 years from the commencement of section 1.

(2) Subject to paragraph 5, where, on the expiry of 27 years from the commencement of section 1, a person is lawfully working a mine for the working of minerals of any description or descriptions in any such land, section 1(1) shall not apply to any minerals of that description or those descriptions, or to any mines of such minerals in that land until the expiry of 48 years from the commencement of section 1.

PROVISIONS FOR SECURING THE DISCLOSURE OF INTERESTS IN CERTAIN

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## EXCEPTED MINES AND MINERALS

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

4. (1) Every person claiming to be the owner of an estate in possession in mines and minerals which have, by virtue of paragraph 3, been excepted from the application of section 1(1) shall, before the expiry of 2 years after the commencement of that section, make application to the Department, in such form accompanied by such particulars as may be required by the Department, for the registration of his estate under this paragraph.

(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 sub-paragraph (1) cannot, or is not likely to, make the application within the period referred to, 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 Department shall keep a register of estates in mines and minerals to which sub-paragraph (1) applies in such form and shall enter in it such particulars of all estates for the registration of which application is duly made under this paragraph and is not, or is not treated as, withdrawn, as the Department thinks fit.

(4) The register kept under sub-paragraph (3) shall be open for inspection by any person during the office hours of the Department.

(5) A person who makes application under sub-paragraph (1), or on behalf of any other person under sub-paragraph (2), shall, on being so required by notice served on him by the Department, furnish to the Department such further and better particulars as are within his knowledge or can reasonably be procured by him as the Department may require, and if any person, within such reasonable period as the Department 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 paragraph and paragraphs 5 and 6 '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 paragraph 4*

5. (1) Subject to sub-paragraph (2), where mines and minerals of any description in any land have, by virtue of paragraph 3, been excepted from the application of section 1(1) and-

(a) no application for the registration under paragraph 4 of any estate in the mines and

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minerals of that description in that land is duly made under sub-paragraph (1) or (2) of that paragraph, or

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

then, upon the expiry of 2 years after the commencement of section 1(1) (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 paragraph 3 had not been passed.

(2) Sub-paragraph (1) shall not render unlawful anything otherwise lawfully done before the expiry of 2 years after the commencement of section 1(1) (or, as the case may be, the time mentioned in that sub-paragraph) by or on behalf of any person mentioned in paragraph 3, 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*

6. (1) A person aggrieved by-

- (a) the refusal of the Department to register any estate in mines and minerals on an application made by him under paragraph 4(1), or by him on behalf of any other person under that paragraph, or
- (b) any requirement made of him by the Department under sub-paragraph (5) of that paragraph,

may appeal against the refusal or requirement within 1 month to the High Court, and the High Court, 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) No order made under this paragraph shall have the effect of-

- (a) prejudicing any disposition duly made, licence, permission or permit duly granted or thing duly done by the Department under Part I 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 Department or any such other person liable to any proceedings whatsoever in consequence of any such disposition, licence, permission, permit or thing.

## **Schedule 2** **Mining Facilities Orders**

### *Making of orders*

1. (1) The Department, where it proposes to acquire any land or any ancillary rights by means of a mining facilities order, shall give notice of its intention to do so in accordance with this paragraph.

(2) A notice under sub-paragraph (1)-

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- (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 2 months from the last publication of the notice) within which objections to the proposal may be presented to the Department; and
- (c) shall name a place or places where maps identifying the land are available for inspection at all reasonable hours;

and shall be served on every person appearing to the Department to have an interest in the land, and there shall be attached to that document 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 Department to affect the Isle of Man Water Authority or the Department of Agriculture, Fisheries and Forestry they shall, for the purposes of this paragraph and paragraph 2, be deemed to be a person interested in the land.

2. (1) On the expiration of 2 months after the last service of the notice mentioned in paragraph 1, the Department, after considering-

- (a) all representations which have been presented to the Department by any interested party; and
- (b) where the mining facilities order is proposed to be made in consequence of an application under section 16(5), any evidence adduced as to the impracticability of the land or ancillary rights being acquired otherwise than compulsorily; and
- (c) any other relevant matters;

may-

- (i) make the mining facilities order, which may contain any modifications that the Department thinks proper, vesting in the Department all or any part of the land or ancillary rights; or
- (ii) determine not to make the order.

(2) A mining facilities order shall contain such provisions as the Department 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 Department shall serve a notice on the persons who were given notice under paragraph 1(2), 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
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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.

- (b) a mining facilities order shall not become operative unless-
  - (i) a period of not less than one month has expired since the last date on which the notice of the making thereof was served in accordance with the provisions of head (a); and
  - (ii) the order has been approved by Tynwald.
- (c) as soon as may be after a mining facilities order has become operative the Department shall serve on every person appearing to the Department 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 Department 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) A mining facilities order shall operate, without further assurance, to vest in the Department, 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 17(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 discharged by payments made by the Department.

5. A mining facilities order, shall forthwith upon lodgment of the order, be registered in the office for the registration of deeds of the General Registry.

6. Subject to the provisions of section 24, on and after the date of vesting the Department or any person authorised by the Department may enter upon and use the land, or exercise the ancillary rights, to which the mining facilities order relates.

7. (1) 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 3 months after the date on which the order becomes operative, serve a notice on the Department, requiring the Department to acquire the remainder thereof.

(2) Where a notice is served on the Department under sub-paragraph (1) the Department shall acquire the remainder of the house, building or factory unless the High Court upon the

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application of the Department 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.

(3) Where the Department acquires the remainder of a house, building or factory in pursuance of sub-paragraph (2), 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 High Court*

8. (1) As soon as a mining facilities order has become operative, any question of disputed compensation arising between the Department 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 High Court.

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

#### *Special powers of the High Court*

9. (1) In determining the amount of any disputed compensation, the High Court 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 Department.

(2) In determining the amount of any disputed compensation, the High Court 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 Department of notice of its intention to acquire the land or ancillary rights compulsorily if, in the opinion of the High Court, 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 of 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*

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

(a) where the compensation is payable by way of a lump sum, or

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- (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 Department from all claims for compensation under this Schedule by the person giving it and all parties claiming through or under him.

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

11. 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 High Court may, within six years after the payment has been made, apply for relief to the High Court; and the Court may either dismiss the application or make an award against the Department for the amount found due in respect of the claim, and any sum so awarded shall be a civil debt owed to the Department by the person to whom the money was paid by it, arising at the date of the award.

12. (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 Department to obtain a good discharge therefor, the Department shall pay the money into the High Court.

(2) Money paid into the High Court under sub-paragraph (1) shall, subject to rules of Court, be dealt with according to the order 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.

### **Schedule 3**

[Sch 3 repealed by Statute Law Revision Act 1992 Sch 2.]

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