

CHAPTER No. 7

**MINERALS (AMENDMENT)
ACT 2006**

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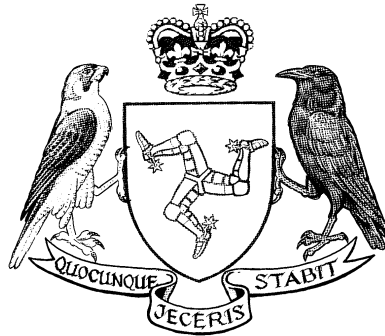
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MINERALS (AMENDMENT) ACT 2006

Arrangement of Sections

Section

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Isle of Man } Signed in Tynwald: 11th July 2006
 to Wit } Received Royal Assent: 11th July 2006
 Announced to Tynwald: 11th July 2006

AN ACT

to amend the Minerals Act 1986;
 and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

1. In section 2 of the Minerals Act 1986 (“the 1986 Act”) (power of DTI to grant prospecting licences) —

Prospecting
licences

[c.46]

(a) in subsection (2) —

- (i) for “Board of Tynwald” substitute “department”;
- (ii) after “Crown or” insert “department or”;

(b) in subsection (3) —

- (i) for “3 months” substitute “4 weeks”;
- (ii) in paragraph (b), for “Board of Tynwald” substitute “department”;

(c) in subsection (4) —

- (i) for “2 months” substitute “4 weeks”;
- (ii) the words from “or such longer” to the end are repealed;

(d) in subsection (5), the words “, in addition to any compensation which is or may become payable under sections 19, 20 and 21,” are repealed;

(e) after subsection (5) add —

“(6) For the purposes of subsection (5), a sum shall be treated as being reasonable if there is an agreement between the purchaser or grantee and the owner of the land in question as to the sum to be paid under that subsection.

(7) The sum to be paid under subsection (5) is additional to and shall not be taken into account in calculating compensation under section 19, 20 or 21.

(8) Any dispute concerning the amount of the sum of money to be paid under subsection (5) shall, in default of agreement between the purchaser or grantee and the owner of the land in question, be determined by arbitration.

(9) Where the land mentioned in subsection (1) is owned or occupied by an individual, 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 owner of that land.”.

Abolition of Treasury concurrence to charge for prospecting licences

2. In section 3 of the 1986 Act (prospecting licences), the words “, with the concurrence of the Treasury,” are repealed.

Liability for mines and minerals, etc.

3. After section 7 of the 1986 Act, insert —

“Liability for mines and minerals, etc. **7A.** (1) Where the Department exercises any power to dispose of an estate in any mines and minerals in land, the liabilities and obligations specified in subsection (2) shall be transferred to and vest in the person to whom the estate is disposed and accordingly, the Department shall not nor shall any member or officer of the Department be liable in respect of such liabilities and obligations.

(2) The liabilities and obligations referred to in subsection (1) are those arising out of or connected with —

(a) the ownership of the minerals disposed of;

(b) any mines relating to the minerals disposed of (whether in existence at the time of the disposal or later);

(c) the working of any such mines or minerals.

(3) In respect of a disposal of an estate in any mines and minerals in land for a term of years, subsection (1) shall have effect in respect of such mines and minerals only during such term.”.

4. In section 16 of the 1986 Act (mining facilities permits) — Payments to landowner

(a) in subsection (6), the words “, in addition to any compensation which is or may become payable under sections 19, 20 and 21,” are repealed;

(b) after subsection (6) add —

“(7) For the purposes of subsection (6), a sum shall be treated as being reasonable if there is an agreement between the applicant and the owner of the land in question as to the sum to be paid under that subsection.

(8) The sum to be paid under subsection (6) is additional to and shall not be taken into account in calculating compensation under section 19, 20 or 21.

(9) Any dispute concerning the amount of the sum of money to be paid under subsection (6) shall, in default of agreement between the applicant and the owner of the land in question, be determined by arbitration.”.

5. (1) In section 8 of the 1986 Act (mining leases) —

Extension of leases and licences

(a) at the beginning insert “(1)”;

(b) at the end add —

“(2) Subject to subsections (3) and (4), the Department may at its discretion agree to extend the term of any current mining lease for a period not exceeding 6 months from the date of expiry of the lease.

(3) The fee for the extension of the term of a mining lease shall be £500 or such other sum as is prescribed by regulations made by the Department and that fee shall be in addition to any other consideration payable under the terms of the lease.

(4) The Department shall, before extending a mining lease under subsection (2), serve notice of its intention to do so to the persons and bodies mentioned in paragraphs (a) to (c) of section 11(1).

(5) Sections 7 and 11 shall not apply in respect of the extension of a mining lease under subsection (2).”.

(2) In section 9 of the 1986 Act (mining licences) —

(a) at the beginning insert “(1)”;

(b) for “sections 7 and 11” substitute “sections 7 and 11(3) to (7)”;

(c) at the end add —

“(2) Subject to subsection (3), the Department may at its discretion agree to extend the term of any current mining licence for a period not exceeding 3 months from the date of expiry of the licence.

(3) The fee for the extension of the term of a mining licence shall be £100 or such other sum as is prescribed by regulations made by the Department and that fee shall be in addition to any other consideration payable under the terms of the licence.

(4) Section 7 shall not apply in respect of the extension of a mining licence under subsection (2).”.

Conditions of
disposal

6. In section 11 of the 1986 Act (conditions for working mines and minerals and for disposal of mines and minerals) —

(a) in subsection (1) —

(i) for “3 months” substitute “4 weeks”;

(ii) in paragraph (b) for “Board of Tynwald” substitute “department”;

(b) after subsection (1) insert —

“(1A) A notice under this section with respect to the proposed exercise of any power of leasing mines or minerals under section 8 shall include a statement explaining the effect of section 8(2) in respect of the proposed lease.”;

(c) in subsection (2) —

- (i) for “2 months” substitute “4 weeks”;
 - (ii) the words “or such longer” to the end are repealed;
- (d) for subsection (3) substitute —

“(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 (which may include royalties) as may be agreed between the Department and the person in whose favour the grant is made.

(3A) Such a disposal, sale or grant shall be upon such other terms and conditions as may be specified in the instrument by which it is effected.

(3B) The conditions of such a disposal, sale or grant shall include conditions —

- (a) for the giving of security by the person in whose favour the grant is made for the fulfillment of that person’s obligations and the payment of any consideration under the disposal, sale or grant;
- (b) for the payment of the whole or part of the expenses (including the cost of legal, professional or technical services) incurred by the Department in respect of or arising out of the disposal, sale or grant, or arising out of the prospecting or working of mines or minerals under the disposal, sale or grant;
- (c) requiring the person in whose favour the disposal, sale or grant is made —
 - (i) to erect such fences and warning notices as may be specified in those conditions; and
 - (ii) on completion of the extraction works, to undertake such safety work as may be specified in those conditions.

(3C) Where royalties are to be the consideration for the disposal of minerals worked under a mining lease, mining licence or mining permission, the royalties shall be of such amount, or calculated in such manner, as may be agreed between the Department and the Treasury.”;

- (e) in subsection (4), the words “, in addition to any compensation which is or may become payable under sections 19, 20 and 21,” are repealed;
- (f) after subsection (4) add —

“(5) For the purposes of subsection (4), a sum shall be treated as being reasonable if there is an agreement between the purchaser or grantee and the owner of the land in question as to the sum to be paid under that subsection.

(6) The sum to be paid under subsection (4) is additional to and shall not be taken into account in calculating compensation under section 19, 20 or 21.

(7) Any dispute concerning the amount of the sum of money to be paid under subsection (4) shall, in default of agreement between the purchaser or grantee and the owner of the land in question, be determined by arbitration.”.

Offences

7. In section 25 of the 1986 Act (offences), for subsection (4) substitute —

“(4) A person who is guilty of an offence under this section shall, in respect of each offence, be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months or to both; or
- (b) on conviction on information to a fine or to custody for a term not exceeding 2 years or to both.”.

Information

8. After section 25 of the 1986 Act, insert —

“Requests for information. **25A.** (1) If there are reasonable grounds for suspecting that a person is or has been in contravention of a provision of this Act, the Department may by notice in writing require that person to provide it with any material that it may reasonably require for the purpose of investigating the suspected contravention.

(2) Material provided by a person in response to a notice under subsection (1) may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 29(6)(b).

(3) A person shall not be under an obligation under this section to disclose any material that is subject to legal privilege within the meaning of section 13 of the Police Powers and Procedures Act 1998.

[c. 9]

(4) If the person who is required to provide material by a notice under subsection (1) objects on the grounds that the material consists partly of matters in respect of which those powers are not exercisable, that person shall, if the Department so requests, furnish it with a copy of so much of the material as is not exempt from those powers.

(5) A person who fails to comply with a notice under subsection (1) or a request under subsection (4) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months or to both.

(6) Any person who, in response to a notice under subsection (1) or a request under subsection (4) —

- (a) furnishes or sends to the Department a document which the person knows to be false or misleading in a material particular; or
- (b) recklessly furnishes or sends to the Department a document which is false or misleading in a material particular; or
- (c) in furnishing information to the Department —
 - (i) makes a statement which the person knows to be false or misleading in a material particular; or
 - (ii) recklessly makes a statement which is false or misleading in a material particular,

shall be guilty of an offence.

(7) A person guilty of an offence under subsection (6) shall be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months or to both; or
- (b) on conviction on information to a fine or to custody for a term not exceeding 2 years or to both.”.

(8) In this section, “material” means documents and information.”.

Regulations

9. In section 26 of the 1986 Act (regulations) —

(a) after subsection (1) insert —

“(1A) Without prejudice to the generality of subsection (1), regulations may —

(a) require the payment to the Department of such fee as may be specified in respect of an application to the Department to —

(i) dispose of any estate in any mines or minerals,

(ii) make a mining lease;

(iii) grant a prospecting licence, mining licence, mining permission or mining facilities permit;

(b) make provision for the manner in which such applications shall be made and the persons who may make them.”;

(b) for subsection (2) substitute —

“(2) Regulations under this Act shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting fails to approve them, the regulations shall cease to have effect.”.

Notice of excavations

10. In section 29 of the 1986 Act (notice of excavations) —

(a) for subsection (1)(b) substitute —

“(b) for any other purpose —

(i) to sink a shaft, borehole or well or make an excavation intended to reach a depth of more than 15 metres below the surface; or

(ii) to extend any existing shaft, borehole, well or excavation (whether or not it has already reached that depth) to reach any greater depth beyond 15 metres; or

- (iii) to sink a shaft, borehole or well or to make an excavation involving the removal of more than 200 cubic metres of material,”;
- (b) in subsection (2) for “fifty feet” substitute “15 metres”;
- (c) in subsection (8)(b) for “fifty feet” substitute “15 metres”.

11. After section 29 of the 1986 Act insert —

“Powers of entry and inspection : issue of warrants

29A. (1) If a justice of the peace is satisfied by information on oath supplied by or on behalf of the Department that there are reasonable grounds for suspecting that a person is or has been in contravention of —

Powers of entry and inspection : issue of warrants

- (a) a provision of this Act or regulations made under it; or
- (b) the terms and conditions of any disposal of minerals worked under section 5, or of any sale of an estate in mines and minerals under section 7, or of any grant of a mining lease, mining licence or mining permission,

and that evidence of the contravention is to be found on any land or premises specified in the information, the justice may grant a warrant to an officer of the Department (who shall be named in the warrant).

(2) A warrant issued under subsection (1) shall authorise the officer and any other person named in the warrant, at any time within 7 days of the date of the warrant to enter the specified land or premises (other than a dwelling), to search them, to inspect, examine, operate and test any equipment found there and to inspect and seize any documents or other material found there which may be such evidence as is mentioned in that subsection.

(3) A person executing a warrant issued under this section may use such reasonable force as may be necessary.

(4) A warrant issued under this section shall be executed at a reasonable hour unless it appears to the person executing it that there are grounds for suspecting that the evidence in question would not be found if it were so executed.

(5) If the person who occupies the land or premises in respect of which a warrant is issued under this section is present when the warrant is executed, that person shall be shown the warrant and supplied with a copy of it; and if that person is not present a copy of the warrant shall be left in a prominent place on the land or premises.

(6) A person seizing anything in pursuance of a warrant under this section shall give a receipt for it if asked to do so.

(7) Anything so seized may be retained for so long as is necessary in all the circumstances but the person in occupation of the land or premises in question shall be given a copy of anything that is seized if that person so requests and the person executing the warrant considers that it can be done without undue delay.

(8) Subject to the provisions of this paragraph, the powers of inspection and seizure conferred by a warrant issued under this section shall not be exercisable in respect of anything subject to legal privilege within the meaning of section 13 of the Police Powers and Procedures Act 1998.

[c. 9]

(9) Subsection (8) does not apply to anything in the possession of —

- (a) any person other than the advocate or the advocate's client; or
- (b) to anything held with the intention of furthering a criminal purpose.

(10) In subsection (9) the reference to the client of an advocate includes a reference to any person representing such a client.

(11) If the person in occupation of any land or premises in respect of which a warrant is issued under this section objects to the inspection or seizure under the warrant of any material on the grounds that it consists partly of matters in respect of which those powers are not exercisable, that person shall, if the person executing the warrant so requests, furnish the latter with a copy of so much of the material as is not exempt from those powers.

(12) A warrant issued under this section shall be returned to the Chief Registrar —

- (a) after being executed, or
- (b) if not executed within the time authorised for its execution;

and the person by whom any such warrant is executed shall make an endorsement on it stating what powers have been exercised under the warrant.

(13) Any person who —

- (a) intentionally obstructs a person in the execution of a warrant issued under this section, or
- (b) fails without reasonable excuse to give any person executing such a warrant such assistance as that person may reasonably require for the execution of the warrant,

is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,000 or to custody for a term not exceeding 6 months or to both.

(14) In this section, “premises” includes any vehicle and references to the occupier of any premises include references to the person in charge of any vehicle.

(15) The power of entry conferred by this section is additional to any other power of entry conferred by this Act.”.

12. In section 30(3) of the 1986 Act, for paragraph (m) substitute — Ancillary rights

“(m) a right to use land for the creation, preservation or restoration of a natural amenity or for the purpose of landscaping that land.”

13. After section 32 of the 1986 Act insert —

“Title to certain land

32A. Where the surface of any land has been excavated or let down (whether before or after the date on which this section comes into operation) for the purpose of, or in connection with, the getting of minerals or the products of minerals, the ownership of any estate in that land shall not be affected except where this Act expressly provides.”

Title to certain land

Repeal

14. The Sand and Gravel Pits Regulation Act 1968 is repealed.

[XX p.529]

Short title and
commencement

15. (1) This Act may be cited as the Minerals (Amendment) Act 2006 and the Minerals Act 1986 and this Act shall be cited together as the Minerals Acts 1986 to 2006.

(2) This Act shall come into operation on such day as may be appointed by order made by the Department of Trade and Industry and different days may be so appointed for different purposes and for different provisions.