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Radioactive Minerals Act, No. 46 of 1968

Date of Assent : December 14, 1968

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AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE MINING, PRODUCTION AND TREATMENT OF RADIOACTIVE MINERALS AND SUBSTANCES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: December 14, 1968]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Radioactive Minerals Act, No. 46 of 1968.

Short title.

2. (1) Any public servant authorized by the Permanent Secretary may, by written notice served on any person, require such person to make such returns, at such times, and containing such particulars as may be specified in the notice, of all or any of the following:

Power to obtain information of prescribed substances.

(a) any such prescribed substance specified in the notice as is in his possession or under his control;

(b) any such minerals specified in the notice as are in his possession or under his control or present in or on land owned or occupied by him, being minerals from which, in the opinion of the Permanent Secretary, any of the prescribed substances can be obtained.

(2) If any person—

(a) fails to comply with any notice served on him under sub-section (1), or

(b) knowingly makes any untrue statement in any return made in pursuance of such notice,

he shall be guilty of an offence.

3. (1) Any person authorized by the Permanent Secretary in that behalf may, on producing, if so required, a document signed by the Permanent Secretary and showing that such person is so authorized, enter at all reasonable hours, for the purpose of inspection, any premises where such person has reasonable grounds for believing that work is being carried out for the mining, production or treatment of radioactive minerals and substances.

Powers of entry and inspection.

(2) If any person wilfully obstructs any other person exercising powers conferred on that other person by sub-section (1), he shall be guilty of an offence.

Power to cause work to be done for discovering minerals from which prescribed substances can be obtained.

4. (1) Subject to the other provisions of this section, any person authorized by the Minister in that behalf may on producing, if so required, a document signed by the Minister and showing that such person is so authorized, do on, over or below the surface of any land such work as the Minister considers necessary for the purpose of discovering whether there is present in or on the land any minerals from which in the opinion of such person any prescribed substance can be obtained, and the extent to which any such mineral is so present.

(2) Before any powers are exercised under sub-section (1) in relation to any land, the Minister shall cause to be served on every owner, lessee and occupier of the land a written notice specifying the nature of the work proposed to be done and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiry of the time prescribed therein for making objections.

(3) If any person on whom a notice under sub-section (2) is served makes an objection and does not withdraw it, the Minister shall, before the person authorized in that behalf by the Minister under sub-section (1) exercises any powers under that sub-section, afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose and, if the person making the objection avails himself of that opportunity, the Minister may afford to any other person, to whom it appears to the Minister expedient to afford it, an opportunity of appearing and being heard on the same occasion.

(4) The Minister may, after considering the objections, if any, made by any of the persons on whom a notice under sub-section (2) is served and the report made on such objections by the person appointed under sub-section (3), cause to be served on the persons on whom that notice was served a further written notice withdrawing or confirming the original notice, or modifying the terms thereof, and,

in the case of modification, no power shall be exercised under sub-section (1) otherwise than in pursuance of the original notice as so modified.

(5) The powers conferred by sub-section (1) shall be deemed to include the power to remove any work constructed or other thing placed on, over or below the surface of the land in the course of the exercise of those powers, and to do such work as the Minister or any person authorized in that behalf by the Minister thinks fit for the purpose of restoring the land wholly or partly to the condition in which it would have been but for the exercise of those powers.

(6) For the purpose of exercising the powers conferred by the preceding provisions of this section, any person authorized in that behalf by the Minister may pass, with or without animals or vehicles, over any land.

(7) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence.

(8) Compensation shall be determined and paid by the Minister in accordance with the First Schedule to this Act in respect of any land on which powers under this section are exercised.

5. (1) Where it appears to the Minister that any minerals from which in his opinion any prescribed substance can be obtained are present in or on any land, the Minister may, subject to the provisions of section 6, by Order published in the *Gazette* compulsorily acquire the exclusive right in respect of that land, so long as the Order remains in force, to prospect for, mine and remove all minerals from which in his opinion any prescribed substance can be obtained.

The Minister to have the exclusive right to prospect for, mine and remove minerals from which any prescribed substance can be obtained.

(2) Where an Order under sub-section (1) is in force in respect of any land, the Minister shall have all the rights ancillary to the exclusive right acquired by him by that Order. Such ancillary rights shall, without prejudice to the generality of the preceding provisions of this sub-section, include—

(a) rights necessary for the purpose of access to or conveyance of the aforesaid minerals or the ventilation or drainage of the mines;

(b) rights to use and occupy the surface of any land for the purpose of erecting any necessary buildings and installing any necessary plant in connection with the extraction of the aforesaid minerals; and

(c) rights to obtain a supply of water for purposes connected with the operations for the extraction of the aforesaid minerals, or to dispose of water or other liquid matter obtained in consequence of such operations.

(3) An Order made under this section shall provide for the payment of compensation by the Minister in such cases and subject to such conditions as may be specified in the Order or determined thereunder, in respect of loss suffered as the result of the exercise of rights under such Order including rights under sub-section (2), but in calculating such compensation no account shall be taken of the value of any minerals present in or on the land affected by such Order, being minerals from which in the opinion of the Minister any prescribed substance can be obtained.

(4) Compensation in respect of any minerals removed by the Minister from a land, other than land disposed of by the Crown with an express or implied reservation to minerals in favour of the Crown, in pursuance of an Order under sub-section (1) which is in force in respect of that land shall be paid by the Minister in accordance with the Second Schedule to this Act.

Proceedings
preceding the
making of an
Order under
section 5.

6. (1) Before an Order is made and published under sub-section (1) of section 5, notice of the Order as proposed to be made shall be caused by the Minister to be published in the *Gazette* and in at least one Sinhala, one Tamil and one English newspaper circulating in Ceylon.

(2) For the purpose of sub-section (1), a notice shall be sufficient notice of a proposed Order if it sets out the purport of such Order and specifies a place where copies of such Order may be inspected free of charge at all reasonable hours.

(3) A notice under sub-section (1) shall contain a statement to the effect that objections may be made to the proposed Order within such time, not being less than twenty-eight days, and in such manner as shall be specified in the notice, and if any such objection is duly made and is not withdrawn, the Minister

shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose. The person so appointed shall make a report on such objections to the Minister.

(4) The Minister shall consider the objections duly made in consequence of a notice under sub-section (1) and the report made on such objections under sub-section (3).

7. (1) The Minister may, subject to and in accordance with the Third Schedule to this Act, compulsorily acquire all or any of the following:—

Compulsory acquisition by the Minister of prescribed substances and minerals and plant.

- (a) any prescribed substances;
- (b) any minerals from which in the opinion of the Minister any prescribed substance can be obtained; and
- (c) any treatment plant designed or adapted for the production of radioactive minerals and substances.

(2) In the case of any such plant affixed to any land as is compulsorily acquired by the Minister under sub-section (1), the Minister may cause it to be severed from the land, and shall, if such severance is made, cause any damage caused by such severance to be made good.

(3) Compensation in respect of the acquisition of any article under this section shall be paid by the Minister in accordance with the Second Schedule to this Act.

8. (1) The Minister may by Order published in the *Gazette* provide for prohibiting except under the authority of a licence granted by the Minister and subject to such conditions as may be specified in the licence, the mining, production, treatment and transport of minerals specified in the Order, being minerals from which in the opinion of the Minister any prescribed substances can be obtained. Any such Order may contain such incidental and supplementary provisions as the Minister considers necessary.

Control of mining, production, treatment and transport of radioactive minerals and substances.

(2) An Order under sub-section (1) may provide for the seizure of any article in respect of which there are reasonable grounds for suspecting that a contravention of the Order has been committed, and for the

retention of any such article pending the institution and final determination of proceedings in respect of the contravention, and for the disposal, if the proceedings lead finally to a conviction, of any such article.

(3) Any person who contravenes or fails to comply with an Order under sub-section (1) or any condition subject to which a licence was granted under such an Order shall be guilty of an offence.

Service of
notices.

9. Any notice required or authorized by or under this Act to be served on any person may be served—

(a) by delivering it to that person ; or

(b) by leaving it, or sending it by post in a registered letter addressed to him, at his usual or last known residence or place of business; or

(c) in the case of a corporation, by delivering it to the secretary or any other officer of that corporation at its registered or principal office, or by sending it by post in a registered letter addressed to him at that office; or

(d) in the case of a notice to be served on an owner, lessee, or occupier of land, if it is not practicable after reasonable inquiry to ascertain his name or address, by addressing it to him by the description "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it may be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Expenses and
compensation.

10. Any expenses incurred by the Minister or the Permanent Secretary in the exercise of powers or the performance of functions under this Act and any sums required by or under any provision of this Act to be paid to any person by way of compensation or interest thereon shall be defrayed or paid out of moneys granted for the purpose by Parliament or by resolution of the House of Representatives.

11. (1) Any person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

Punishment for offences under this Act.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body, or was purporting to act in any such capacity, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

12. (1) The Minister may make regulations generally for the purpose of giving effect to the principles and provisions of this Act and particularly in respect of any matter which is stated or required by this Act to be prescribed or for which regulations are required by any provision of this Act to be made.

Regulations.

(2) No regulation made under this section shall have effect until it is approved by the Senate and the House of Representatives and notice of such approval is published in the *Gazette*.

13. The provisions of this Act shall be in addition to and not in substitution for or derogation of the provisions of any other written law relating to mines, quarries and minerals or the employment of persons or the conditions of workers in relation thereto:

Provisions of this Act to be supplemental to other law.

Provided that, where the provisions of this Act are in conflict with any such other provision or written law, the provisions of this Act shall prevail.

14. In this Act unless the context otherwise requires—

Interpretation.

“minerals” include all substances obtained or obtainable from the soil by underground or surface working;

“Permanent Secretary” means the Permanent Secretary to the Ministry of which the Minister is in charge;

“prescribed substance” means uranium, thorium, beryllium, lithium or any of their compounds, or any other substance which the Minister may by notification in the *Gazette* prescribe, being a substance which, in his opinion, is or may be used for the production or use of atomic energy or research into matters connected therewith;

“treatment plant” includes any machinery, equipment or appliance, whether affixed to land or not.

[Section 4 (8)]

FIRST SCHEDULE

COMPENSATION FOR WORK DONE ON A LAND IN SEARCHING FOR MINERALS.

1. When compensation is payable under sub-section (8) of section 4 of this Act in respect of powers exercised under that section on any land, the compensation shall be—

- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period when powers under section 4 of this Act are exercised on the land, under a lease granted immediately before the beginning of that period, whereby the tenant undertakes to pay all usual rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and
- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the aforesaid period in consequence of the exercise of the aforesaid powers, except in so far as the damage has been made good during the aforesaid period by the Minister.

2. Any compensation under sub-paragraph (a) of paragraph 1 of this Schedule shall accrue due on the last day of each month in the period for which that compensation is payable, and shall be paid to the person who would be entitled to occupy the land during that period but for the exercise of powers under section 4 of this Act on the land.

3. Any compensation under sub-paragraph (b) of paragraph 1 of this Schedule shall accrue due at the end of the period during which powers under section 4 of this Act are exercised on the land, and shall be paid to the person who is then the owner of the land.

4. Any compensation payable in accordance with this Schedule shall carry interest, as from the time at which it accrues due, until payment, at such rate per annum as the Minister of Finance may from time to time by Order published in the *Gazette* prescribe.

5. Any dispute as to whether any compensation is payable in accordance with this Schedule, or as to the amount of such compensation, or the persons to whom it is payable shall be referred to and determined by an arbitrator to be appointed by agreement between the parties to the dispute or, in default of such agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the parties to the dispute in such proportion as the arbitrator determines.

SECOND SCHEDULE

[Section 5 (4)
and 7 (3).]

COMPENSATION FOR THE REMOVAL OF MINERALS FROM A LAND OR FOR THE COMPULSORY ACQUISITION OF ANY ARTICLE.

1. Where compensation is payable under sub-section (4) of section 5 of this Act in respect of any minerals removed from a land, or under sub-section (3) of section 7 of this Act in respect of any article compulsorily acquired, the compensation shall be a sum equal to the price which the owner thereof might reasonably have been expected to obtain upon a sale thereof effected by him—

- (a) in the case of such minerals, immediately before the date of publication in the *Gazette* of the Order in pursuance of which such minerals are removed, and
- (b) in the case of such article, immediately before the date of the service of the notice of acquisition.

Such compensation shall accrue due, in the case of such minerals, on the date of removal of such minerals from the land, and, in the case of such article, on the date of the service of the notice of acquisition, and shall be paid to the owner.

2. Any dispute as to whether any compensation is payable in accordance with this Schedule, or as to the amount of such compensation, or the persons to whom it is payable shall be referred to and determined by an arbitrator to be appointed by agreement between the parties to the dispute or, in default of such agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the parties to the dispute in such proportion as the arbitrator determines.

3. Any compensation payable in accordance with this Schedule shall carry interest, as from the time at which it accrues due, until payment, at such rate as the Minister of Finance may from time to time by Order published in the *Gazette* prescribe.

4. "Notice of acquisition" has the same meaning as in the Third Schedule.

{Section 7 (1)}

THIRD SCHEDULE

COMPULSORY ACQUISITION OF ARTICLES.

1. Where the Minister proposes to acquire any article under section 7 of this Act the Permanent Secretary shall cause to be served upon the person appearing to the Permanent Secretary to be the owner thereof a notice in writing (hereinafter and in the Second Schedule referred to as a "notice of acquisition") specifying the article to be acquired and requiring that person to make to the Permanent Secretary within a time specified in the notice a written declaration containing such particulars as may be so specified in regard to the ownership of that article and to any agreement or charge by virtue of which any other person has an interest in that article.

2. Upon the service of a notice of acquisition under paragraph 1 of this Schedule no article to which the notice relates shall be removed from the premises in which the article is situate at the time of the service of the notice without the consent of such person as is specified in the notice; and if any person knowingly removes, or causes or permits to be removed, any article in contravention of this paragraph, he shall be guilty of an offence.

3. If it appears to the Permanent Secretary in consequence of any written declaration made to the Permanent Secretary in pursuance of paragraph 1 of this Schedule or otherwise that any person other than the person on whom the notice of acquisition was served is the owner of, or has any interest in, any article to which the notice relates, the Permanent Secretary shall cause to be served a copy of the notice of acquisition on that other person.

4. A notice of acquisition shall contain a statement to the effect that objection may be made thereto within such time (not being less than twenty-eight days) and in such manner as may be specified in the notice, and if any such objection is duly made and not withdrawn, the Permanent Secretary shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Permanent Secretary for the purpose, and, if the person making the objection avails himself of the opportunity, the Permanent Secretary may afford to any other person to whom it appears to the Permanent Secretary expedient to afford it, an opportunity of being heard on the same occasion.

5. If any such objection as aforesaid is duly made and not withdrawn, the Permanent Secretary shall, after considering such objection and the report of the person appointed by the Permanent Secretary under paragraph 4 of this Schedule, cause

to be served on the person upon whom the notice of acquisition or a copy thereof was served a further notice in writing either withdrawing the notice of acquisition or confirming it as respects all the articles to which it relates or such of those articles as may be specified.

6. Any article with respect to which a notice of acquisition is served under this Schedule shall—

- (a) if no objection is duly made to the notice, vest, absolutely and free from all encumbrances, in the Minister at the expiration of the time for making such an objection, and
- (b) if such an objection is duly made and the notice is confirmed as respects that article by a notice served under paragraph 5 of this Schedule, vest, absolutely and free from all encumbrances, in the Minister on the service of the last-mentioned notice.