



MONTSERRAT

CHAPTER 8.12

MINERALS (VESTING) ACT

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

MINERALS (VESTING) ACT

Act 16 of 1965 .. in force 15 October 1965

Amended by Act 7 of 1966 .. in force 13 August 1966

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CHAPTER 8.12

MINERALS (VESTING) ACT

(Acts 16 of 1965 and 7 of 1966)

AN ACT TO VEST IN THE CROWN ALL MINERALS IN MONTSERRAT AND TO MAKE PROVISION FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

Commencement

[15 October 1965]

Short title

1. This Act may be cited as the Minerals (Vesting) Act.

Interpretation

2. In this Act, unless the context otherwise requires—

“**Accountant General**” means the officer for the time being performing the duties of Accountant General of Montserrat;

“**mine**”, with its grammatical variations and cognate expressions, means intentionally to search for, extract or win minerals;

“**minerals**” does not include—

- (i) pottery clay or rock salt, or
- (ii) any material, such as clay, sand, limestone, sandstone, or other stones, commonly used for the purpose of road making or for building or for the manufacture of any article used in the construction of buildings where such material does not contain any valuable metal or precious stone in economically workable quantities,

but includes the following—

- (a) metalliferous minerals containing aluminum, antimony, arsenic, barium, bismuth, cadmium, cerium, chromium, cobalt, columbium, copper, iron, lead, lithium, magnesium, manganese, mercury, molybdenum, nickel, potassium, sodium, tantalum, tin, titanium, tungsten, vanadium, zinc, zirconium and all other substances of a similar nature to any of them, and all ores containing them and combinations of any of them with each other or with any other substance, excepting only those that occur in the form of precious minerals;
- (b) combustible carbonaceous minerals including—
 - (i) coal; and
 - (ii) lignite, which includes brown coal and any coal which the Governor may prescribe to be lignite;
- (c) mineral oils, including bitumen, asphalt and all other bituminous substances;
- (d) other minerals, including those used for their abrasive or refractory qualities and asbestos, barytes, bauxite, china clay, fullers earth, graphite, laterite, marble, mica, nitrates, pipeclay, potash, quartz, crystals, slate, soda, sulphur, talc and all other substances of a similar nature to any of them; and
- (e) precious minerals, including—
 - (i) precious stones and semi-precious stones including amber, amethyst, beryl, cat’s eye, chrysolite, garnet, and all other semi-precious stones, whether of the same kind as those enumerated or not; and
 - (ii) precious metals;

“precious metals” means gold, silver, or metal of the platinoid group, in the unmanufactured state, and all ores containing such metal, but not including ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;

“precious stones” means diamonds, emeralds, opals, rubies, sapphires, turquoises, and such other stones as may be prescribed to be precious stones for the purpose of this Act;

“prospect”, with its grammatical variations and cognate expressions, means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land.

All minerals vested in the Crown

3. (1) It is hereby declared that all minerals being in, on or under any land of whatsoever ownership or tenure are vested in and are subject to the control of the Crown.

(2) In this section, **“minerals”** includes all radio-active minerals as defined in the Radio-Active Minerals Act.

Prohibition of prospecting and mining except by licence

4. (1) No person shall prospect for or mine any minerals except by authority of a licence granted by the Governor and in accordance with the terms and conditions specified in such licence.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 and to a further fine not exceeding \$50 for each day during which the contravention continues.

Consent of owner or special licence required for prospecting or mining within fifty yards of any building

5. (1) No licence granted under subsection (1) of section 4 of this Act shall authorise prospecting or mining within fifty yards of any building except with the consent of the owner or occupier of such building:

Provided that where such consent is withheld the Governor may grant a special licence to prospect for or mine any minerals in, upon or under the lands comprising such area upon such terms and conditions specified in such licence.

(2) If any person prospects for or mines any minerals in contravention of any terms or conditions specified in any special licence granted under subsection (1) of this section, he shall be liable on summary conviction to a fine not exceeding \$1,000 and to a further fine not exceeding \$50 for each day during which the contravention continues.

Notice and security for compensating for damage

6. The holder of any licence granted under this Act intending to prospect or mine on any lands shall give notice of his intention to the owner and occupier of such land before commencing operations thereon, and shall, if required by the owner, occupier, or the Governor, lodge with the Accountant General such sum, or give security therefor, as the Governor may direct for the payment of any compensation which may be payable under section 7 of this Act, and such sum, or the balance thereof (if any) may be refunded or released as the Governor may think fit.

Payment of compensation to owners and occupiers

7. (1) The holder of any licence granted under this Act shall, on demand being made by the owner or occupier of the land in, upon or under which prospecting or mining operations are being made or have been carried on by him, pay such owner or occupier fair and reasonable compensation for any disturbance of his surface rights and for any damage done to the surface of the land or to any live or dead stock, crops, trees, buildings or works, as a result of such operations.

(2) The amount of compensation payable under subsection (1) of this section shall be determined by agreement between the parties or, if the parties are unable to reach agreement or if the agreed compensation is not paid, the owner or occupier may take proceedings in the Magistrate's Court without limit of amount.

(3) The sum awarded by the Magistrate, or when there has been an appeal, by the Court of Appeal, as the case may be, shall be paid within fourteen days of the date of the decision.

(4) Without prejudice to any other means of recovery, if the sum awarded is not paid within the time specified in subsection (3) of this section such sum may, on application to the Governor, be paid out of the amount lodged under section 6.

(5) The Governor may, by notice to the holder of any licence granted under this Act who has failed to pay the sum awarded, suspend his licence until the sum awarded has been paid and until such holder has lodged with the Accountant General such further sum as the Governor may demand as security for any future compensation payable, and if such payment or lodgment is not made within such time as the Governor may appoint, the Governor may revoke the licence of the holder in default.

Payment of royalties under mining licence

8. Where any licence to mine is granted under this Act there shall be paid to the Government by the holder of a licence in respect of minerals mined by virtue of that licence such royalties as may be prescribed, and different royalties may be prescribed for different minerals.

Extent to which royalties payable to owners of land

9. (1) Except as provided in this section, where minerals are won in, on or under any land which is not Crown land, there shall be paid to the owner of the land the royalties or part thereof as is in this section provided in respect of the minerals so won:

Provided that, where there is a tenant for life of such land, the royalties or part thereof payable to the owner shall be paid into the Public Treasury to the credit of the owner and (notwithstanding anything to the contrary contained in the Savings Bank Act, or in any Rules made thereunder with respect to the limitation of the amount of a deposit and the interest payable thereon) it shall be invested by the Accountant General in the Government Savings Bank without limit as to amount, and the income arising therefrom shall be paid to the tenant for life during his lifetime, and upon his death the capital sum so invested shall be paid to the owner of the land.

(2) The part of the royalties to be paid under this section shall be five per centum of the royalties paid to the Government and it shall be paid at such times and subject to such conditions as may be prescribed:

Provided that if any person proves to the satisfaction of the Governor that he was at the commencement of this Act in receipt of any income derived from mining operations carried on on lands of which he is the owner, the full amount of the royalties payable to the Government shall be paid to such owner during the period for which royalties is payable under this section, and in any case the amount of such royalties shall not be less than the income by way of royalties to which, but for the passing of this Act, such person would have been entitled under any subsisting agreement.

(3) No royalties or part thereof shall be payable to the owner of any land under this section at any time after either—

- (i) the fiftieth anniversary of the commencement of this Act;
or
- (ii) the twenty-fifth anniversary of the day upon which, after the commencement of this Act, such minerals were first won in, on, or under such land,

whichever first happens: Provided that where mining operations are suspended on the area of the mining lease the period during which such operations are so suspended shall not be taken into account in determining such twenty-fifth anniversary.

(4) No royalties or part thereof shall be payable under this section in respect of any precious metals or precious stones which are won in, on or under any land.

Payment of royalties or compensation where owner doubtful

10. (1) Where any doubt arises as to the person who is entitled as owner to the payment of any royalties or part thereof or any compensation which

is payable under this Act, such sums shall be paid into the High Court to the credit of the person who may be entitled thereto and it may (subject to the provisions of this section) on the subsequent application of any person claiming to be entitled thereto, be paid out to such person on the order of a Judge of the Court.

(2) All money paid into the High Court under the provisions of this section which remain unclaimed for twelve years after such payment shall be transferred and paid into the general revenue of Montserrat, and all claims thereto shall be forever barred.

Regulations

11. The Governor may make regulations with respect to any matter which may be prescribed under this Act, including the form of licenses to prospect for minerals or to mine minerals and the fees to be paid therefor.

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