

MINERAL OIL AND COAL ORDINANCE 1922-1923.*

An Ordinance relating to Mining for Mineral Oil and Coal.

Short title.
Short title
amended:
No. 17, 1938,
s. 4.

1. This Ordinance may be cited as the *Mineral Oil and Coal Ordinance 1922-1923.**

Repeal of
*Mineral Oil
Ordinance 1913.*

2. The *Mineral Oil Ordinance 1913* is hereby repealed.

Definitions.
Amended by
N. 8, 1923,
s. 2.

3. In this Ordinance, unless the contrary intention appears—

“Chief Warden” means the Chief Warden appointed under the *Northern Territory Mining Act 1903* of the State of South Australia;

“Mineral Oil” means any mineral oil occurring in a free state and obtainable by boring or wells; but does not include mineral oil extracted from coal, shale, or other substance by some industrial process;

“Payable” as applied to mineral oil means mineral oil of such quantity and quality that it can, under ordinary circumstances, be worked with profit;

“Minister” means the Minister of State for the time being controlling the Northern Territory;

“Unauthorized person” means any person not being a government official or other person authorized by the Chief Warden or authorized under this Ordinance or the lessee or licensee under this Ordinance or any person employed by the lessee or licensee;

“Warden” means a warden appointed under the *Northern Territory Mining Act 1903* of the State of South Australia, and includes the Chief Warden.

* The *Mineral Oil and Coal Ordinance 1922-1923* comprises the *Mineral Oil and Coal Ordinance 1922* as amended. Particulars of the Principal Ordinance and of the amending Ordinance are set out in the following table:—

Ordinance.	Number and Year.	Date notified in <i>Commonwealth Gazette.</i>	Date of Commencement.
<i>Mineral Oil and Coal Ordinance</i> 1922	No. 2, 1922	16th March, 1922 ..	16th March, 1922
<i>Mineral Oil and Coal Ordinance</i> 1923	No. 8, 1923	7th June, 1923 ..	7th June, 1923

4.—(1.) A licence to search for mineral oil or coal or both mineral oil and coal may be granted in accordance with this Ordinance over any land, not exceeding one thousand square miles in area, in respect of which the mineral oil and coal therein are reserved to or belong to the Crown, and, subject to this Ordinance, a licence shall—

Effect of licence to search for mineral oil and coal.
Sub-section (1.) amended by No. 8, 1923, s. 3.

- (a) be for a period of five years from the date thereof;
- (b) confer on the licensee the exclusive right to search for mineral oil or coal or both, as the case may be, in the land included therein and to do all things necessary or incidental thereto, including the sinking of shafts and bores, and the erection of machinery;
- (c) in the event of payable mineral oil being discovered by a licensee on the land included in a licence to search for mineral oil, confer on the licensee a preferential right to a mineral oil lease in respect of one area of one hundred and sixty acres and also a mineral oil reward lease in respect of a further area of six hundred and forty acres to be selected by the licensee from the area to which the licence relates: Provided that if a licensee fails within six months after the discovery of payable mineral oil to apply for a mineral oil lease and a mineral oil reward lease in pursuance of this paragraph, the preferential right shall be deemed to be determined; and
- (d) in the event of coal being discovered in payable quantities on the land included in a licence to search for coal or mineral oil and coal, confer on the licensee a preferential right to a coal lease in respect of one area of six hundred and forty acres to be selected by the licensee from the area to which the licence relates:
Provided that if a licensee fails, within six months after the discovery, to apply for a coal lease in pursuance of this paragraph the preferential right shall be deemed to be determined.

(2.) On the date of the commencement of any lease granted to a licensee in pursuance of the preferential right referred to in paragraph (c) of sub-section (1.) of this section, or at the expiration of six months after the discovery of payable mineral oil if during that period the licensee fails to apply for a mineral oil lease, the licence of that licensee shall be deemed to be determined.

(3.) Licences under this Ordinance shall be subject to such terms and conditions as are prescribed.

Application for licences to search for mineral oil and coal.

5.—(1.) Any person who desires to prospect for mineral oil or coal, or both mineral oil and coal, may make application to the Minister or to the Administrator at Darwin for the grant by the Minister of a licence in respect of an area not exceeding one thousand square miles, described in the application.

(2.) The Minister may either refuse the application, or require it to be amended, or may accept it.

(3.) Upon the acceptance of the application, or upon its being amended to the satisfaction of the Minister and accepted in its amended form, the Minister may grant to the applicant a licence in accordance with the application.

(4.) Licences shall be in the prescribed form.

Licence fees.

6.—(1.) The fee for a licence shall be Ten pounds per annum, payable in advance.

(2.) The amount of the fee for the first year shall be lodged at the time of application.

(3.) In the event of the amount of the fee payable for any licence in respect of any year subsequent to the first not being paid within thirty days from the date on which it becomes due, the licence shall cease and determine.

Renewal of licences.

7.—(1.) The holder of a licence may apply to the Minister or to the Administrator before the expiration of his licence, or within thirty days thereafter for a renewal of his licence.

(2.) The Minister may accept the application and grant a renewal of the licence for a further period of five years or may refuse the application.

Cancellation of licence.

8.—(1.) The Minister may cancel a licence at any time for non-fulfilment of any of the conditions attached to the licence.

(2.) No person or body of persons shall be entitled as against the Commonwealth, the Minister or any authority of the Commonwealth to compensation or damages in respect of the cancellation of any licence under this Ordinance.

Continuance of existing licences.

9.—(1.) All licences to search for mineral oil or coal, or both mineral oil and coal, granted by the Minister prior to the commencement of this Ordinance, and which are still in existence shall be deemed to have been granted under the provisions of this Ordinance, but shall have effect only for the respective periods expressed in the licences.

(2.) The holder of any licence to which the last preceding sub-section applies may, before the expiration of the licence or within thirty days thereafter, make application for a renewal of the licence for a period of five years, and, in the event of such application being approved by the Minister, a licence under this Ordinance shall be granted to the applicant in lieu of the licence for the renewal of which the application is made.

10. The holder of a licence under this Ordinance shall not by virtue only of his licence have the right to graze any live stock on the land included in the licence, beyond such number as the Minister considers sufficient to enable him to carry out the purposes of the licence.

Licensee not to have right to graze cattle.

11. The occupier of pastoral lands covered by a licence under this Ordinance shall have free access at all times, with or without cattle, sheep and other live stock to any surface or other water on the land included in the licence which has not been provided by artificial means by the licensee, and the licensee shall permit the occupier to use such water for such purposes as the occupier thinks fit.

Access to water.

12. A licence shall not be transferred or assigned without the approval in writing of the Minister being first obtained.

License not to be transferred.

13. The Minister may, at his discretion, vary any condition attached to a licence, or extend the time for carrying out any such condition.

Variation of conditions.

14. No person, body of persons, or company shall be entitled to hold more than one licence at the one time, unless specially authorized thereto by the Minister.

One licence only for any person or company.

15. A licensee may at any time surrender a licence by notice to the Minister in the prescribed form, and the licence shall thereupon determine.

Surrender of licences.

16.—(1.) The licensee under a licence shall, within ninety days after the grant of his licence, or such further time as the Minister allows, commence to search for mineral oil or coal or both as the case may be, upon the land held under licence, and, upon the failure of the licensee to do so, the Minister may cancel the licence.

Licensee to engage in search for mineral oil or coal.

(2.) The licensee shall employ at least four white men continuously for a period of not less than six months in each year in actual prospecting or searching for mineral oil or coal upon the land covered by the licence.

(3.) If at any time during the currency of a licence, complaint is made to the Minister, or he has cause to believe, that a licensee has not made or is not making reasonable endeavours to search for mineral oil or coal or both as the case may be, upon the land, or is not complying with the provisions of this Ordinance or observing the conditions of his licence, he may direct a warden or magistrate to call upon the licensee to show cause why his licence should not be cancelled.

(4.) The warden or magistrate shall thereupon give at least thirty days' notice to the licensee or his agent to appear before him to show cause why the licence should not be cancelled, and, having heard the case in open Court, shall forward the evidence and his report thereon to the Minister, who, if satisfied that it is just to do so, may cancel the licence.

Penalty for
infringing
rights of
licensee.

17. Any person who searches or attempts to search for mineral oil or coal on land included in any licence in contravention of the rights of the licensee, or who (without reasonable ground, proof whereof shall be upon him) hinders or interferes with any licensee in the exercise of his rights under the licence shall be guilty of an offence.

Penalty: One hundred pounds.

Reports by
licensees.

18.—(1.) Every licensee shall furnish to the Minister at the end of each three months, or at such other intervals as the Minister from time to time directs, a report showing the number of white men employed and the nature of the work done in searching for mineral oil or coal on the land included in the licence during the period covered by the report.

(2.) If a licensee discovers mineral oil or coal, or any indication that renders the presence of mineral oil or coal probable, he shall immediately report the discovery to the Minister.

(3.) In the event of a licensee reporting the discovery of mineral oil, or of any indication of the probable presence of mineral oil, the Minister, or any officer thereto authorized by him, may direct the future working of the land covered by the licence of that licensee to such extent as is, in his opinion, necessary to guard against loss or waste of mineral oil, and such directions, when given in writing by the Minister or any officer thereto authorized by him, to the licensee, shall be observed and carried into effect by the licensee.

(4.) In the event of the refusal or failure of the licensee to carry out any direction given under this section, the Minister may cancel the licence.

Mineral oil
leases.

19.—(1.) Leases called mineral oil leases or coal leases may be granted under this Ordinance for mining for mineral oil or coal.

(2.) Notwithstanding anything contained in the *Northern Territory Government Ordinance 1911*, leases under this Ordinance shall be granted exclusively by the Minister.

(3.) An application for a mineral oil lease or a coal lease shall be made in the prescribed form, and shall be lodged either with the Minister or with the Administrator for transmission to the Minister.

(4.) Each application shall be accompanied by the prescribed survey fee when required, and the first year's rent.

(5.) Applications for a mineral oil lease or a coal lease in respect of any area shall be dealt with in the order in which they are received by the Minister, and in the event of two or more applications being received simultaneously, the Minister, or officer thereto authorized by him, shall decide the order of priority of the applications by lot:

Provided that where an application is lodged with the Administrator for transmission to the Minister, the Administrator shall forthwith notify the Minister by telegram of its receipt, and such application shall be deemed to have been received by the Minister at the time at which such telegram is received by him:

Provided further that nothing in this sub-section shall affect the preferential right of a licensee under this Ordinance to receive a mineral oil lease in respect of land not exceeding one hundred and sixty acres held by him under licence.

(6.) The area comprised in a mineral oil lease shall not exceed one hundred and sixty acres.

(7.) The area comprised in a coal lease shall not exceed six hundred and forty acres, and shall be subject to such conditions as are prescribed.

(8.) The term of a mineral oil lease or a coal lease shall not exceed twenty-one years.

(9.) The yearly rent for a mineral oil lease or a coal lease shall be payable in advance, and shall be at the rate of One shilling per acre.

Amended by
No. 8, 1923,
s. 4.

(10.) A mineral oil lease or a coal lease may be renewed for a further term not exceeding twenty-one years, at the discretion of the Minister.

20.—(1.) An applicant for a lease under this Ordinance shall, before lodging his application, mark the land to be included in the lease.

Description and
marking of land
the subject of
lease
applications.

(2.) For the purposes of this section land shall be marked by the erection at one corner thereof of a post or cairn of stones at least three feet high, and the fixing thereto of a notice in the prescribed form.

(3.) The application shall be accompanied by a description and plan sufficient to identify the land referred to in the application.

(4.) The shape of the land applied for shall, as nearly as circumstances permit, be that of a square:

Provided that, when owing to the position of adjoining boundaries or natural features, a square area is not available, intervening or irregularly shaped pieces of land may be applied for.

Licences and leases to be granted only to British subjects.

21. A licence or lease under this Ordinance shall not be granted—

- (a) to any company other than a company formed and incorporated under the law of the United Kingdom or of some other part of the King's dominions and registered under the provisions of the law relating to companies in force in the Northern Territory; or
- (b) to any company unless at least two-thirds of its shares are held by natural born or naturalized British subjects; or
- (c) to any person who is not a British subject.

Cancellation of leases and licences.

22. The Minister may cancel any lease or licence granted under this Ordinance if in his opinion the lessee or licensee has ceased to be a person or company capable of being granted a lease or licence under this Ordinance.

Foreign companies not to hold leases.

23. A company or body of persons formed under the law of any country not being a part of the British Dominions shall not be capable of directly or indirectly acquiring or holding a mineral oil lease or a coal lease or any interest therein whether legal or equitable.

Lessee not to transfer without consent.

24. The lessee under a mineral oil lease or coal lease shall not, without the consent of the Minister, be entitled to assign or transfer the lease.

Right of pre-emption.

25.—(1.) The Governor-General shall have the right of pre-emption of all oil produced by a lessee from any land held under a mineral oil lease and of all products of such oil, and in the event of the exercise of this power the lessee shall do all things reasonable in his power to facilitate the delivery of the oil or products in accordance with the directions of the Governor-General.

(2.) The price to be paid for the oil or product shall, if the price is not agreed upon between the parties, be settled by arbitration.

26. In the event of any emergency, the lessee under a mineral oil lease shall, if so requested by the Minister, use his utmost endeavours to increase the supply of oil and oil products for the use of the Crown.

Increase of supply.

27. When an application for a licence or lease has been approved, notice of such approval shall be given to the applicant, and upon the receipt thereof he shall be at liberty to enter upon the land for the purpose for which the licence or lease is to be granted as if he were the licensee or lessee, and shall be subject to the terms and conditions of the licence or lease to the same extent as if it had been actually issued:

Effect of approval of application.

Provided that any application for a lease approved before the land comprised in the application has been surveyed shall be deemed to be approved subject to the land being found to be available after the survey has been made.

28. A licensee or lessee shall in relation to the land included in the licence or lease, have the right—

Rights of licensee or lessee to take timber and water.

- (a) to cut and use a sufficient quantity of timber to enable him to carry out the purposes of the licence or lease;
- (b) to take water from any natural spring, lake, pool, or water-course on the land, and to use it for any purpose necessary or incidental to the use of the land under the licence or lease.

29. A mineral oil lease shall contain the following reservations, covenants and conditions:—

Reservations and covenants in leases.

- (a) A reservation of all water-courses and timber and timber trees on the land;
- (b) A reservation of power to authorize mining on the land for any purpose other than mineral oil;
- (c) A covenant by the lessee to pay the rent as and when it becomes due;
- (d) A covenant by the lessee to pay in accordance with this Ordinance a royalty of Five pounds per centum on the gross value of all crude oil obtained from the land:

Amended by No. 8, 1923, s. 5.

Provided that in the case of leases granted pursuant to paragraph (c) of sub-section (1.) of section four of this Ordinance, to the licensee who first discovers payable mineral oil, the royalty shall be at the rate of Two pounds ten shillings per centum on the gross value of all crude oil obtained from the land during the first five years of the lease and thereafter shall be at the rate of Five pounds per centum as aforesaid;

- (e) A covenant by the lessee to work the land to the satisfaction of the Minister;
- (f) A covenant by the lessee to fence the land if and when required by the Minister so to do;
- (g) A covenant by the lessee to refine or have refined, in the Northern Territory or in some part of Australia approved of for that purpose by the Minister, all crude oil produced from the leased land, or if required by the Minister to have all or any of such crude oil refined at the works of the Commonwealth Oil Refineries Limited;
- (h) A covenant by the lessee not to ship or export any crude oil to any place outside Australia without the consent of the Minister;
- (i) A covenant by the lessee to observe and comply with the provisions of this Ordinance and the regulations thereunder for the time being in force;
- (j) A condition that if the rent or royalty is not paid for six months after it becomes due the Minister may forfeit the lease;
- (k) A condition that if the lessee commits any breach of a covenant for which no other penalty is provided, he shall in the case of a first breach pay such penalty not exceeding One hundred pounds as the Minister thinks fit to impose, and, in the case of a further breach or of failure to pay a penalty imposed under this condition, that the Minister may forfeit the lease;
- (l) Such other reservations, covenants, and conditions as are prescribed.

Power of
Minister to
give directions
to lessee.

30. The Minister or an officer thereto authorized by him may give directions to the lessee under a mineral oil lease in regard to the working of the land included in the lease, and if the lessee fails, within such period as the Minister allows, either to comply with the directions so given or to furnish reasons to the satisfaction of the Minister for not complying with such directions, the Minister may forfeit his lease.

Right of lessee
to surrender
lease.

31. On giving notice to the Minister in the prescribed form and upon payment of all rents and other charges due, the lessee under a mineral oil lease or coal lease may at any time surrender his lease and the lease shall thereupon determine.

Reservation of
land from
leases.

32.—(1.) The Minister may by proclamation declare that any area specified in the proclamation shall be reserved from leasing under this Ordinance, except as regards the granting of

leases in pursuance of the preferential rights of licensees, and may by subsequent proclamation revoke or vary such proclamation.

(2.) While any proclamation reserving any area from leasing is in force, no lease under this Ordinance, other than a lease under a preferential right, shall be granted in respect of the area or any portion of the area specified in the proclamation, and any applications for such leases shall during that period be deemed to be suspended.

33.—(1.) The lessee under a mineral oil lease shall, not later than the fourth day of each month in each year or such other time as is prescribed, forward to the Minister a return in the prescribed form, showing the quantity of mineral oil obtained from the land during the last preceding month, and the value or estimated value thereof, and such other particulars as are prescribed.

Returns.

(2.) If the amount of royalty due is not paid within fourteen days after it has been ascertained, any officer appointed for that purpose by the Minister may seize and take possession of and sell on behalf of the Crown, any mineral oil obtained from the land.

(3.) The proceeds of any sale of mineral oil under this section shall be applied—

(a) in payment of the necessary expenses in connexion with the seizure and sale,

(b) in payment of the amount of royalty due,

and the balance (if any) shall be paid to the lessee.

(4.) Any owner or manager who fails to furnish any return as prescribed by this section, or who furnishes a return which is false in any material particular, shall be guilty of an offence.

Penalty: Fifty pounds.

33A. Notwithstanding anything contained in this Ordinance or any Act or State Act or any Ordinance relating to the occupation of Crown Lands in force in the Northern Territory, any unauthorized person who comes or remains within the prescribed distance of any oil boring plant or any furnace, workshop, boiler house, condenser or reservoir used in connexion with the working of such plant shall be guilty of an offence.

Prohibition of approach to oil boring plant, &c.

Inserted by No. 8, 1923, s. 6.

Penalty: One hundred pounds.

33B. Any person who wilfully and maliciously injures any well sunk for the production of oil or gas, any tank intended or used for the storage of oil or gas, any line of pipe intended or

Injury to oil or gas wells.

Inserted by No. 8, 1923, s. 6.

used for the transportation of oil or gas, or any machinery connected with such wells, tanks, or lines of pipe, shall be guilty of an offence.

Penalty: Five hundred pounds or imprisonment for five years, or both.

Inspection of books.

34.—(1.) The lessee under a mineral oil lease shall keep proper books and accounts in which shall be entered particulars of the receipts and expenditure in connexion with the working of the land for mineral oil, so that the amount of royalty payable in respect of the mineral oil obtained, and also the correctness of any return may be ascertained, and shall, if required so to do, produce such books and accounts to any officer appointed by the Minister to inspect them.

(2.) Any person who impedes or obstructs any such officer in the performance of his duty under this section shall be guilty of an offence.

Penalty: Fifty pounds.

Regulations.
Substituted by
No. 8, 1923,
s. 7.

35.—(1.) The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Ordinance, and in particular:—

- (a) prescribing conditions to be complied with by lessees and licensees; and
- (b) imposing penalties not exceeding Fifty pounds for the breach of any Regulation.

(2.) All regulations made by the Minister under this Ordinance shall—

- (a) be notified in the *Gazette*;
- (b) take effect from the date of notification, or from a later date specified in the regulations; and
- (c) be laid before both Houses of Parliament within thirty days after the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

(3.) If either House of the Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House, disallowing any regulation, the regulation shall thereupon cease to have effect.