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Ref No 131
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Previous Paper
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MINING ORDINANCE No. 6 of 1912

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Read
W. Longman

Noted 12/25/12

H. J. R.
19/11

This order seems on the whole to ^{run out} instructions satisfactorily. In applying s. 21 of Gold Coast 14/100 they have made some alterations in sub (1) which I think are an improvement. See notes on ss. 46 & 59 (Comparative Table). The adaptation of sub (4) of the Gold Coast Code (see s. 59 (2)) is not so satisfactory. There ~~should~~ have been some definition as to the phrase "British Company" and "Cooperation under foreign control" in agreement with the provisions of s. 59 (1). However we can't think leave it so

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EAST AFR. PROT.
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MINING ORDINANCE NO. 5 OF 1912

Three copies with Crown Advocate's report.

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Read
H. J. R.

Notes 1/2/12

H. J. R.
19/11

Copy placed in library page 5

This order seems on the whole to carry out instructions satisfactorily. In applying Art. 21 of Gold Coast 14/100 they have made some alterations in sub (1) which I think are an improvement. See notes on ss. 46 & 59 (Comparative Table). The adaptation of sub (4) of the Gold Coast Order (see s. 59 (4)) is not so satisfactory. There should have been some definition to ^{bring} make the phrases "British Company" and "Corporation under foreign control" into agreement with the provisions of s. 59 (1). However we can't think leave it to

59336/22
Subsequent Paper
3434

The Combs to make these parts of the
article harmonious when the occasion
arises. The new s. 57 (as explained
in the Comparative Table) is about
the same satisfactory
s. 72 (XXV) is new but need raise no
objection

The article does not seem anywhere
to be in violation of the
consent in writing of the law (see
para. 5 of draft deposited on 11/90. Adm.)
The only provision in s. 46 (1) that
directs that the transfer of claims
must be "subject to the regulations
in the present manner"
Provision is made with regard to
leases of directing that they shall
contain covenants against assignment
without consent. See s. 49 (4) ss (6)
56 (4). But I do not see what
the regulations are.

Regulations of
CF. 24/0

Mr. Spindle

Would you kindly look at
the "oil" clauses?

H. J. R.
26/11

The. Read

I think they are sufficient for present

The Combs to make these parts of the
article harmonious when the occasion
arises. The new s. 57 (as explained
in the Comparative Table) is about
the same satisfactory
s. 72 (XXI) - new but - see note as
objection

The article does not seem anywhere to
provide that necessary clause shall
not be a reasonable person with such
consent in writing of the
para 5 of diff. drafts in 1190. Adm.)
The only provision in s. 46 (1) which
directs that the transfer of shares
must be subject to the regulations
& in the prescribed manner
Provision is made with regard to
cases of directing that they shall
contain covenants against amendment
without consent. see s. 49 (1) 53 (1)
56 (1). But? we need not stress
the regulations to
be made in accordance with the
? Sanction of
cf. 24/10.

Mr. Spindler
Would you kindly look at
the "out" clauses?
H. J. R.
26/11

Mr. Read
I think they are sufficient for present

purposes. The Protectorate firms all
 appear to have all their mining law
 in one ord. ^{g.}, which is a convenient
 arrangement, & as there is no active
 development of oil or pitch mining at
 present, & apparently no prospect of any,
 there seems to be no reason why they should
 not do so. But if ever the industry becomes
 a big one, & then it may be better to
 have special legislation & an expert
 settle it after local investigation.

other
 for the
 part

29/11

SB

Sir, G. Fildes

Sanction D.7.?

A. J. R.

29/11

Not of much practical importance at
 present, so that not devoted much time
 to it

M. 44

at all.

U. R. 4.

S. R.

GOVERNMENT HOUSE,
NAIROBI.
BRITISH EAST AFRICA

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BRITISH EAST AFRICA 12

AFRICA PROTECTORATE

February 21st, 1912.

No. 131.

Sir,

Adm
1199

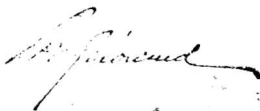
With reference to your despatch No. 286 of the 19th of May last, I have the honour to transmit herewith two authenticated and ten printed copies of the Mining Ordinance No. 8 of 1912 as passed by the Legislative Council to which I have assented in the name of His Majesty.

A memorandum by the Crown Advocate is also enclosed herewith.

I have the honour to be,

Sir,

Your humble, obedient servant,



GOVERNOR.

RIGHT HONOURABLE

FRANK HARRIS, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

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REC'D
MAR 12

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA

AFRICA PROTECTORATE

February 21st, 1912.

No. 131.

Sir,

Army
11199


With reference to your despatch No. 266 of the 19th of May last, I have the honour to transmit herewith two authenticated and ten printed copies of the Mining Ordinance No. 6 of 1912 as passed by the Legislative Council to which I have assented in the name of His Majesty.

2. A memorandum by the Crown Advocate is also enclosed herewith.

I have the honour to be,

Sir,

Your humble, obedient servant,



GOVERNOR.

THE RIGHT HONOURABLE
FRANK HARCOURT, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

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C O
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MEMORANDUM.

THE MINING ORDINANCE, 1912.

This Ordinance was returned to the
on the 14th of February and was amended in accordance with the instructions of the Secretary

The amendments made with an explanation of each will be found set out on the attached comparative table.

The Ordinance as amended may be seen to and published.

NAIROBI.

14th February, 1912.



CROWN ATTORNEY

AMENDMENTS TO THE MINING ORDINANCE, 1910.

Amendment No.	Description	Remarks
Section 1.	Delete "1910" and substitute "1912".	Alteration in date.
Section 4.	<p>After the definition of "European" insert :</p> <p>"Foreigner" means any person who is not a British Subject.</p> <p>"Foreign Corporation" means any Corporation other than a Corporation established under and subject to the laws of some part of His Majesty's Dominions or of the Protectorate and having its principal place of business in those Dominions or in the Protectorate.</p>	See Sub-Section (2) of Section 21 of the Gold Coast Compositions Ordinance No. 14 of 1900.
Section 24.	<p>At the end of the Section add :</p> <p>(5) A Prospecting License shall not</p>	This and the next amendment are necessary provisions if only British Subjects

Provisions in Finance as passed in 1910.	Amendments.	Explanation.
	authorize a person who is not a British Subject to peg out an oil claim.	to be permitted to acquire rights to mine for oil.
Section 25.	At the end of the Section add : Provided, however, a person who is not a British Subject shall not be entitled to own an oil claim or to enjoy the right of mining for oil anything in this Ordinance to the contrary notwithstanding.	
Section 26.	At the end of the first paragraph add that whenever oil is found on any claim other than an oil claim the holder of a prospecting license, being a British Subject, may peg out on such claim an oil claim."	This is necessary and without such additions a prospector could not in the working of oil be found on land already occupied by him under another class of claim.
Section 26.	The existing Section to become Sub-Section (1). Add Sub-Section (2) as follows :-	Sub-Section (1) of Section 21 of the Coast Ordinance in so far as it is applical

visions in
1910.

amendments.

amendments.

(2) The transfer of any
claim and the grant or
transfer of any share or
interest therein shall
be invalid unless the
consent in writing of
the Governor to such
transfer or grant shall
first have been obtained,
and the transferee or
grantee is a British
subject, or a firm or
company, all the
members of which shall
at all times be British
subjects, or a British
Company registered in Great
Britain or in a British
colony or in any foreign
territory and having its
principal place of business
within His Majesty's
Dominions or in the
protectorate and the
Chairman of the said
Company and all the
remaining directors
shall at all times be

to the assignment of
any claim. It will be
observed that both in this
and in the preceding
provisions it is so far
those provisions relate to
shares and debentures, to
the extent of requiring
that in the event of any
claim or share or
held by a firm or
company all the members of
the firm or company shall
at all times be British
subjects, or a British
Company registered in Great
Britain or in a British
colony or in any foreign
territory and having its
principal place of business
within His Majesty's
Dominions or in the
protectorate and the
Chairman of the said
Company and all the
remaining directors
shall at all times be

and a law the wording of
the section is the word "must"
shall appear to be
unsatisfactory in so far
as it relates to firms
and syndicates.

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Amendments.

Explanation.

Section 57.

delete and substitute
 57. The Governor may
 prescribe the number of
 coal or oil leases which
 may be held by one person.

The amendment is not in
 the terms recommended by
 the Secretary of State.
 The amendment
 satisfactorily covers
 the objections raised to
 the original Section.
 It is considered that it
 would be more satisfactory
 to give the Governor the
 power to prescribe the
 number of oil leases
 which may be held by one
 person. It is suggested
 that with the Governor
 in the latter position
 to fix a definite
 number to issue a regula-
 tion limiting the number
 of oil leases to one
 except where permission to
 hold more is obtained
 from the Secretary of
 State.

Under the amendment
 suggested by the Secretary
 of State the public would
 at all times remain in
 doubt as to the number of
 leases which one person
 could hold.

Section 58.

Delete the whole and substitute the following :-

Conditions
in respect
of leases
for mineral
oil.

58. Every lease
granted for the
purpose of mining
for mineral oil or

any other mineral shall be subject to the following conditions :-

(a) That the lessee shall give an undertaking that he shall be required to do so, cause the produce of a refinery capable of dealing with the output of oil from the area leased to him, and will so treat the oil as to produce residues suitable for the requirements of His Majesty's Government, provided that the lessee may, if he prefer to do so, arrange with the proprietors of some approved refinery already erected in the tract to refine the oil in accordance with the requirements of His Majesty's Government.

Section 54 of the
Trinidad Regulations.

in 1910.

Amendments.

Explanation.

provided ~~that~~ also that the Governor shall have the power to waive this condition in any lease, either for a fixed period to cover the initial stages of development or until a reasonable time after His Majesty's Government shall have announced its readiness to purchase from the lessee stated quantities of oil residues at their current commercial value.

(b) That the lessee shall give reasonable security for the proper development of the area leased.

(c) That His Majesty's Government shall have the right of pre-emption at current commercial prices of all crude oil won from the area leased, and of all products of the refining or treatment of such oil.

(d) That in the event of war, the Governor on behalf of His Majesty's Government shall have power to take control of the works and plant in the area leased.

(e) That the Governor shall have the power to regulate the site of any refinery or place of storage of oil in the Protectorate.

ions in ance an in 1910.	Amendments.	Explanation.
	<p>(2) If the Lessee shall assign the same in whole or in part without the previous consent in writing of the Governor, or if the Lessee or Assignee shall cease to be a British Subject, or if, where a firm or Syndicate is the Lessee or Assignee, any member of the firm or Syndicate shall cease to be a British Subject, the Governor may thereupon annul the lease, and in the event of any alteration being made in the articles of association or constitution of a Company holding any such lease previous notice thereof shall be given in writing to the Governor who, if in his opinion the said alteration shall be contrary to the cardinal principle that the said Company shall be and remain a British Company and under British control, may refuse his consent to such alteration. If and whenever any such alteration shall be</p>	

Section 58.

After Section 58 insert new Section as follows :-

Oil Leases only to be granted or assigned to British Subject.

59. (1) No lease for the purpose of mining for mineral oil shall

be granted and no

assignment of any such lease or lease shall be made.

The Lessee or Assignee shall be a British Subject or a firm or Syndicate, all the members of which shall at all times be and remain British Subjects, or a British Company registered in Great Britain or in a British Colony or in the Protectorate and having its principal place of business within His Majesty's Dominions or the Protectorate, and the Chairman of the said Company and all the remaining Directors shall at all times be British Subjects and the Company shall not at any time be or become a Corporation directly or indirectly controlled by foreigners or foreign Corporations.

Section 21 Sub-Sections (1) and (4) of the Gold Coast Ordinance No. 14 of 1900. See remarks or amendments to Section 21.

	Amendments.	Explanation.
	<p>made without the written consent of the Governor or of the Company shall at any time cease to be a British Company or shall become a Corporation under foreign control, the Governor may thereupon cancel the lease.</p>	
Section 72.	<p>After paragraph (XXIV) insert a new paragraph as follows :- (XXV) Prohibiting or regulating the cutting of timber on land the subject of a mining lease, and prescribing the compensation to be paid to the Government or to the person having surface or forest rights, by a lessee thereby authorised to cut timber.</p>	<p>This addition is made in consequence of a question which has been raised by the holder of forest rights as to person from whom he would receive compensation in the event of his being disturbed in the enjoyment of such rights by a person who had obtained mining rights over the same area.</p>
Section 88.	<p>After Section 88 insert a new Section :</p> <p>Refinery for oil not to be erected without consent of Governor.</p> <p>89. No person shall erect or cause to be erected a refinery</p>	<p>An amendment required by the Secretary of State.</p>

in
at
in 1910.

Amendments.

Explanation.

for the purpose of refining oil except the consent in writing of the Governor shall first have been obtained. Any person who shall erect a refinery without such consent shall be liable to a fine not exceeding Three Thousand Rupees and any person who shall use for the purpose of refining oil any refinery which has been erected without such sanction shall be liable to a fine not exceeding Seven hundred and fifty Rupees for every day on which he shall use the same for such purpose.