

THE NORTHERN TERRITORY OF AUSTRALIA

No. 111 of 1978

AN ORDINANCE

To amend the Mining Ordinance

[Assented to 9 November 1978]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Mining Ordinance (No. 3) 1978.

Short title

2. The Mining Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal Ordinance

3. This Ordinance shall come into operation on the date on which the Aboriginal Land Ordinance 1978 comes into operation.

Commencement

4. Section 3 of the Principal Ordinance is amended by omitting "the Schedule" and substituting "Schedule 1".

Repeal

5. Section 7 of the Principal Ordinance is amended -

Definitions

(a) by omitting the definition of "aboriginal reserve" and substituting the following definition:

" 'Aboriginal reserve' means land that -

(a) is, or is a part of, a reserve within the meaning of the Social Welfare Ordinance; and

(b) is not Aboriginal land;"; and

(b) by inserting after the definition of "improvements" the following definition:

" 'Land Council' means an Aboriginal Land Council established under the Aboriginal Land Rights (Northern Territory) Act 1976";.

6. Section 23(1) of the Principal Ordinance is amended by omitting "Soil Conservation and Control Ordinance" and substituting "Soil Conservation and Land Utilization Ordinance, section 75 of the Aboriginal Land Rights (Northern Territory) Act 1976".

Rights
conferred by
miner's right

Administrator
may grant or
renew explor-
ation licence

7. Section 38B of the Principal Ordinance is amended -

- (a) by inserting in sub-section (1) after "Ordinance" the words "and to Part IV of the Aboriginal Land Rights (Northern Territory) Act 1976";
- (b) by omitting from sub-section (1)(a) (iii) the word "and";
- (c) by inserting after sub-section (1)(a) (iii) the following sub-paragraph:

"(iv) Aboriginal land; and";

- (d) by inserting after sub-section (1) the following sub-section:

"(1A) Subject to section 38Z(6), the Minister shall not grant an exploration licence in respect of Aboriginal land unless the Administrator has approved the grant and -

- (a) the Land Council for the area in which the land is situated and the Minister for Aboriginal Affairs have consented in writing to the making of the grant; or
- (b) the Governor-General has, by proclamation made pursuant to section 40 of the Aboriginal Land Rights (Northern Territory) Act 1976, declared that the national interest requires that the grant be made."; and
- (e) by inserting after sub-section (6) the following sub-sections:

"(6A) Where a person applies for an exploration licence over Aboriginal land, he, or any person on his behalf, shall not enter into negotiations with a Land Council with respect to the application or the grant of an exploration licence unless the applicant has received an offer, in writing from the Minister, of an exploration licence over that land which offer is subject to subsequent compliance with Part IV of the Aboriginal Land Rights (Northern Territory) Act 1976.

"(6B) If a person, to whom sub-section (6A) applies, fails to comply with any requirement of sub-section (6A), the Minister may, in his absolute discretion, refuse to grant an exploration licence to that person, whether over the land the subject of the application referred to in sub-section (6A) or otherwise.

"(6C) Where the Minister has made an offer in writing to an applicant for an exploration licence over an area of Aboriginal land which offer is subject to the subsequent compliance with Part IV of the Aboriginal Land Rights (Northern Territory) Act 1976, the Minister shall

not make a further offer of an exploration licence over that area of Aboriginal land to another person unless -

- (a) the original applicant has withdrawn his application;
- (b) the land is freed from the operation of the exploration licence by surrender; or
- (c) the Minister is satisfied that negotiations between the applicant and the Land Council and the Minister for Aboriginal Affairs have taken place and the consent of the Land Council or that Minister, as the case may be, has been reasonably withheld."

8.(1) Section 38E(5) of the Principal Ordinance is amended by omitting paragraph (b) and substituting the following:

Application
for grant or
renewal of
exploration
licence

- "(b) advertise the application in a newspaper printed in the Northern Territory and at the office of the Director of Mines and, if the land in respect of which the application is made is or includes private land or Aboriginal land, give notice of the application, by post or otherwise, to the owner of that private land or to the Land Council for the area in which that Aboriginal land is situated, as the case may be."

(2) Section 38E(6) of the Principal Ordinance is amended by omitting paragraph (d) and substituting the following:

- "(d) appoint a date, not being earlier than 28 days after the advertisement is posted at the office of the Director of Mines and, if the land in respect of which the application is made is or includes private land or Aboriginal land, not being earlier than 14 days after notice of the application is given to the owner of the private land or the Land Council for the area in which the Aboriginal land is situated, as the case may be, on or before which objections may be lodged against the grant of a licence."

9.(1) Section 38H(1)(b) of the Principal Ordinance is amended by inserting after "but" the words", subject to paragraph (ba)",.

Processing of
application
for grant of
exploration
licence

(2) Section 38H(1) is amended by inserting after paragraph (b) the following:

- "(ba) need not take into account priority of applications where the land the subject of the application is or includes land described in Schedule 1 to the Aboriginal Land Rights (Northern Territory) Act 1976 and the applications were lodged at the office of the Director of Mines after 15 December 1972 and before a date of which the Minister gives notice in the Gazette for the purpose of terminating the period for which

priority need not be taken into account under this paragraph;".

Part IVB

10. The heading to Part IVB of the Principal Ordinance is amended by adding at the end thereof the words "AND ABORIGINAL LAND".

11. After section 38Y of the Principal Ordinance the following section is inserted in Part IVB:

Mining
leases, &c.,
on Aboriginal
land

"38Z.(1) Subject to this section, a person is not able to take possession of, mark off or obtain a mining lease, special mineral lease or claim over Aboriginal land unless he is, or at the time of applying for the mining lease, special mineral lease or claim was, the holder of an exploration licence or a prospecting authority over that land, and -

- (a) the Land Council for the area in which the land is situated and the Minister for Aboriginal Affairs have consented to the mining lease, special mineral lease or claim; or
- (b) the Governor-General has, by proclamation made pursuant to section 40 of the Aboriginal Land Rights (Northern Territory) Act 1976, declared that the national interest requires that the grant of a mining interest be made.

"(2) The provisions of sub-section (1) shall not apply to -

- (a) a person who had marked off and applied for a mining lease on that land before the land became Aboriginal land; or
- (b) a traditional Aboriginal owner of that land.

"(3) Where the Minister for Aboriginal Affairs and a Land Council, after considering proposals before it by an applicant for an exploration licence in respect of Aboriginal land, being proposals for the exploration for minerals on that land and the recovery of any minerals found as a result of that exploration, have, for the purpose of section 38B(1A), consented to the grant of that licence, sub-section (1) does not apply to a later grant to the applicant or to his successor in title or to the registration of a mining lease, special mineral lease or claim in respect of that land where that later grant or registration is substantially in accordance with the proposals.

"(4) Sub-section (1) does not apply to or in relation to an application for a mining lease, special mineral lease or claim lodged before 4 June 1976 by a person who, at the time of lodging the application, was the holder of an exploration licence or prospecting authority in respect of the land for which the mining lease, special mineral lease or claim had been applied.

"(5) For the purposes of this section, a prospecting authority means a prospecting authority issued under the Mining Ordinance 1939 or that Ordinance as amended from time to time.

"(6) A person shall not be required to be the holder of an exploration licence over Aboriginal land in order to explore for or to apply for a mineral lease to extract-

(a) sand, gravel or clay; or

(b) stone that is appropriate for use as crushed rock,

being sand, gravel, clay or stone that is appropriate for use in construction or building, but, where a person exercises his right so to apply and he obtains a mineral lease, the mineral lease does not confer a right to mine for other minerals.

"(7) If the lands, or a part of the lands, described in Schedule 2, being the Ranger Project Area and the Eastern Areas of Groote Eylandt respectively, become Aboriginal land, section 38B(1A) and this section shall not apply in relation to those lands or any part thereof.

"(8) Where a mining lease in respect of Aboriginal land may be granted without the consent of the Land Council for the area in which the land is situated, the mining lease shall not be granted unless the applicant for the mining lease has entered into an agreement under seal with the Land Council containing such terms and conditions as are agreed on by the parties having regard to the effect of the grant of the mining lease on Aboriginals, which terms may include a requirement for the payment to the Land Council by the applicant of an amount or amounts specified in, or calculated in accordance with, the agreement."

12. Section 50A of the Principal Ordinance is amended -

(a) by omitting from sub-section (1) ", 50 and 50B" and substituting "and 50";

(b) by omitting from sub-section (1) all the words from and including "comprised in" and substituting "comprised in -

(a) a mining lease; or

(b) a claim registered under the regulations.";

(c) by omitting from sub-sections (3), (4) and (5) "specified in sub-section (1)"; and

Special provisions concerning royalty on washed bauxite

Royalty in
respect of
leases and
claims on
Aboriginal
land

- (d) by omitting from sub-section (6) all the words from and including "specified in" and substituting "is one and one quarter cents in the dollar on the value of washed bauxite as determined in accordance with this section."

13. Section 50B of the Principal Ordinance is amended -

- (a) by omitting "and 50, but subject to section 50A," and substituting ", 50 and 50A,";
- (b) by omitting ", or at any time after the date of the commencement of the Mining Ordinance 1953 has been, an aboriginal reserve or included in an aboriginal reserve" and substituting "an Aboriginal reserve or included in an Aboriginal reserve, or is Aboriginal land or included in Aboriginal land";
- (c) by omitting "or 50" and substituting ", 50 or 50A";
- (d) by inserting in paragraph (b) after "special mineral lease" the words ", but not including a mineral lease or special mineral lease for washed bauxite";
- (e) by inserting after paragraph (b) the following paragraph:
- "(ba) in the case of a claim, a mineral lease or special mineral lease for washed bauxite - section 50A;"; and
- (f) by inserting in paragraph (d) after the word "minerals" (first occurring) the words ", but not including a claim for the mining of washed bauxite".

Royalty on
gold found on
mineral lease
or claim

14.(1) Section 52(1)(b) of the Principal Ordinance is amended by omitting ", or at any time after the date of the commencement of the Mining Ordinance 1953 has been, an aboriginal reserve or included in an aboriginal reserve - " and substituting "an Aboriginal reserve or included in an Aboriginal reserve, or is Aboriginal land or included in Aboriginal land - ".

(2) Section 52(2) of the Principal Ordinance is amended by omitting ", or at any time since the commencement of the Mining Ordinance 1953 has been, an aboriginal reserve or included in an aboriginal reserve," and substituting "an Aboriginal reserve, or included in an Aboriginal reserve, or is Aboriginal land or included in Aboriginal land,".

Definitions

15. Section 106 of the Principal Ordinance is amended by inserting after "any land" the words ", other than Aboriginal land,".

First
Schedule

16. The heading to the Schedule to the Principal Ordinance is omitted and the following heading substituted:

"SCHEDULE 1".

17. The Principal Ordinance is amended by adding at the end thereof the following Schedule:

Second
Schedule

"SCHEDULE 2

Section 38Z(6)

Part I

RANGER PROJECT AREA

All that piece of land in the Northern Territory of Australia containing an area of 83 square kilometres more or less bounded by lines described as follows:

Commencing at the intersection of latitude 12 degrees 38 minutes with longitude 132 degrees 53 minutes 30 seconds thence proceeding to the intersection of latitude 12 degrees 36 minutes with longitude 132 degrees 53 minutes 30 seconds thence proceeding to the intersection of latitude 12 degrees 36 minutes with longitude 132 degrees 53 minutes thence proceeding to the intersection of latitude 12 degrees 35 minutes with longitude 132 degrees 53 minutes thence proceeding to a point which lies at the intersection of latitude 12 degrees 35 minutes with a line joining the intersections of latitude 12 degrees 29 minutes with longitude 132 degrees 51 minutes and latitude 12 degrees 36 minutes with longitude 132 degrees 55 minutes thence proceeding to intersection of latitude 12 degrees 36 minutes with longitude 132 degrees 55 minutes thence proceeding to a point which lies at the intersection of longitude 132 degrees 56 minutes 22 seconds with a line joining the intersections of latitude 12 degrees 36 minutes with longitude 132 degrees 55 minutes and latitude 12 degrees 33 minutes 20 seconds with longitude 133 degrees thence proceeding to the intersection of latitude 12 degrees 43 minutes 20 seconds with longitude 132 degrees 56 minutes 22 seconds thence proceeding to the intersection of latitude 12 degrees 43 minutes 20 seconds with longitude 132 degrees 53 minutes thence proceeding to a point which lies at the intersection of longitude 132 degrees 53 minutes with a line joining the intersection of latitude 12 degrees 38 minutes with longitude 132 degrees 53 minutes 30 seconds and latitude 12 degrees 39 minutes 50 seconds with longitude 132 degrees 49 minutes thence proceeding to the intersection of latitude 12 degrees 38 minutes with longitude 132 degrees 53 minutes 30 seconds.

Part II

EASTERN AREAS OF GROOTE EYLANDT

All those pieces of land in the Northern Territory of Australia containing an area of 43.96 square kilometres more or less:

Firstly

Commencing at the intersection of latitude 14 degrees 01 minutes with longitude 136 degrees 30 minutes 30 seconds

thence proceeding to the intersection of latitude 14 degrees 01 minutes with longitude 136 degrees 32 minutes 30 seconds thence proceeding to the intersection of latitude 14 degrees 03 minutes with longitude 136 degrees 32 minutes 30 seconds thence proceeding to the intersection of latitude 14 degrees 03 minutes with longitude 136 degrees 30 minutes 45 seconds thence proceeding to the intersection of latitude 14 degrees 02 minutes with longitude 136 degrees 30 minutes 45 seconds thence proceeding to the intersection of latitude 14 degrees 02 minutes with longitude 136 degrees 30 minutes 30 seconds thence proceeding to the intersection of latitude 14 degrees 01 minutes with longitude 136 degrees 30 minutes 30 seconds.

Secondly

Commencing at the intersection of latitude 14 degrees 04 minutes with longitude 136 degrees 28 minutes 45 seconds thence proceeding to the intersection of latitude 14 degrees 04 minutes with longitude 136 degrees 31 minutes thence proceeding to the intersection of latitude 14 degrees 04 minutes 30 seconds with longitude 136 degrees 31 minutes thence proceeding to the intersection of latitude 14 degrees 04 minutes 30 seconds with longitude 136 degrees 34 minutes 15 seconds thence proceeding to the intersection of latitude 14 degrees 06 minutes 30 seconds with longitude 136 degrees 34 minutes 15 seconds thence proceeding to the intersection of latitude 14 degrees 06 minutes 30 seconds with longitude 136 degrees 31 minutes 30 seconds thence proceeding to the intersection of latitude 14 degrees 06 minutes with longitude 136 degrees 31 minutes 30 seconds thence proceeding to the intersection of latitude 14 degrees 06 minutes with longitude 136 degrees 30 minutes thence proceeding to the intersection of latitude 14 degrees 05 minutes with longitude 136 degrees 30 minutes thence proceeding to the intersection of latitude 14 degrees 05 minutes with longitude 136 degrees 28 minutes 45 seconds thence proceeding to the intersection of latitude 14 degrees 04 minutes with longitude 136 degrees 28 minutes 45 seconds.
