

No. 15—1942.

*Oil Rights (Alien Control).*

AN ORDINANCE to regulate the holding of oil rights by aliens.

[27th August, 1942.]

Commencement.

Short title.

1. This Ordinance may be cited as the Oil Rights (Alien Control) Ordinance, 1942.

Definitions.

2. For the purposes of this Ordinance—

“alien” includes a company incorporated outside His Majesty’s dominions ;

“authorised company” means a company incorporated in the Colony or in some other part of His Majesty’s dominions, of which company at least one director and the chief local representative shall be British subjects ;

“British subject” shall be deemed to include a person under His Majesty’s protection ;

“His Majesty’s dominions” shall be deemed to include Protectorates, Protected States and Mandated Territories ;

“natural gas” means gas obtained from bore holes and wells, and consisting of hydrocarbons ;

“oil rights” means any right, title or interest conferring upon the holder thereof for the time being the right of searching or boring for, or winning, oil whether any such right, title or interest be acquired or held in conjunction with or separate from any other right, title or interest in any land ;

“operate” includes any of the operations necessary for, or connected with, the searching or boring for, or winning, oil ;

“oil” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shale or other stratified deposits from which oil can be extracted by destructive distillation.

3. (1) It shall be lawful for the Governor in Council <sup>Application of the Ordinance.</sup> from time to time by notification published in the *Royal Gazette*—

- (a) to exempt from the application of this Ordinance oil rights in such area or areas as may be described in the notification ;
- (b) to cancel any such exemption as to the whole or any part of any such area.

(2) Whenever the exemption of any area or part thereof shall be cancelled in the manner provided in subsection (1) of this section, the provisions of this Ordinance shall apply in relation to oil rights in the area or part thereof to which the cancellation relates as though the Ordinance had come into force at the date of such cancellation, and in this Ordinance the expression “the commencement of this Ordinance” shall, in relation to any such oil rights, mean the date upon which the exemption was cancelled.

(3) Nothing in this Ordinance shall apply to the holding of oil rights under a lease or licence granted under the Land (Oil Mining) Regulations, 1934, or any regulations amending or replacing the same.

4. (1) It shall be lawful for any alien holding a licence to <sup>Licences for acquisition of oil rights by an alien.</sup> that effect granted by the Governor to hold oil rights in the Colony.

(2) The Governor may grant a licence to hold oil rights to any alien who is not and is not controlled by a national of, or a company incorporated in, a country the laws and customs of which do not permit British subjects or companies incorporated in His Majesty's dominions or companies incorporated in that country controlled directly or indirectly by British subjects or by companies incorporated in His Majesty's dominions to acquire, hold and operate oil rights on conditions which in the opinion of the Governor are reasonably comparable with the conditions upon which such rights are granted to aliens under this Ordinance.

(3) Subject to the provisions of the preceding subsection the granting or refusal of a licence shall be in the absolute discretion of the Governor.

(4) For the purpose of ensuring that oil rights to which a licence under this section relates are operated with due regard to the interests of the Colony the Governor, in his absolute discretion, may—

(a) attach conditions to the licence ;

(b) after giving such notice as he may deem reasonable to the licensee, add new conditions or cancel or vary any conditions.

(5) Every condition and every cancellation or variation of a condition shall be endorsed on the licence or otherwise communicated in writing to the licensee.

(6) Without prejudice to the generality of the powers conferred by subsection (4) of this section, conditions may make provision for securing—

(a) that the oil rights are operated within such time as may be specified ;

(b) that, from and after such date as may be specified, the oil rights shall be transferred to an authorised company which is engaged in, or has been incorporated for the purpose of, operating oil rights in the Colony.

(7) The following conditions shall be implied as attaching to any licence granted under this section, namely—

(a) that the oil rights to which it relates shall, if operated, be operated reasonably ;

(b) that the majority of the persons engaged in the operation of such oil rights shall at all times be British subjects.

(8) If any oil rights are held by an alien without a licence under this section, or if any condition or implied condition attached to any such licence is not complied with or ceases to be complied with or is infringed, such oil rights shall be liable to be dealt with in the manner provided in section 8 : Provided that—

(a) save as provided in subsection (1) of section 5 of this Ordinance, this section shall not apply to oil rights acquired by the alien before the commencement of this Ordinance ;

(b) oil rights acquired by an alien under a will or on an intestacy without a licence under this section shall not be liable to be dealt with in the manner provided in section 8 if, within six months from the acquisition of such oil rights or within such extended time as the Governor may decide to be reasonable, the oil rights are sold to a person who is not an alien or a licence to hold such oil rights is granted under this section.

5. (1) The Governor shall, on application therefor being duly made by any alien, grant to such alien a licence to hold oil rights acquired by him before the commencement of this Ordinance and the provisions of subsections (4), (5), (6) and (7) of the preceding section shall apply in relation to any such licence.

Oil rights held by aliens at the commencement of this Ordinance.

(2) Any oil rights acquired by an alien before the commencement of this Ordinance and held by such alien at the expiration of six months from the commencement of this Ordinance or of such extended time as the Governor may decide to be reasonable shall be liable to be dealt with in the manner provided in section 8 unless such alien has previously made due application for a licence under this section.

(3) If any condition or implied condition attached to any licence granted under this section is not complied with or ceases to be complied with or is infringed the oil rights to which the licence relates shall be liable to be dealt with in the manner provided in section 8.

6. (1) Subject to the provisions of subsection (2) of this section, the Governor may, in his absolute discretion, grant to any alien who, but for the provisions of this section, would require to be licensed for the purpose under the Aliens (Landholding) Ordinance a licence under this section to hold specified surface rights in land which, in the opinion of the Governor, are necessary or desirable for the purpose of operating oil rights thereunder held by such alien.

Surface rights necessary for the operation of oil rights.

Ch. 21. No. 3.

(2) A licence under this section shall not be granted to any alien who does not satisfy the condition of subsection (2) of section 4.

- (3) The Governor, in his absolute discretion, may—
- (a) attach conditions to the granting of a licence under this section;
  - (b) after giving such notice as he may deem reasonable to the licensee, add new conditions or cancel or vary any condition.

(4) Every condition and every cancellation or variation of a condition shall be endorsed on the licence or otherwise communicated in writing to the licensee.

(5) Without prejudice to the generality of the powers conferred by subsection (3) of this section, a condition may make provision for securing that from and after such date as may be specified the surface rights shall be transferred to an authorised company which is engaged in, or has been incorporated for the purpose of, operating oil rights in the Colony.

(6) A licence under the Aliens (Landholding) Ordinance shall not be necessary in respect of the holding of surface rights by an alien under a licence granted under this section or by an authorised company to whom they have been transferred by any such alien in pursuance of a condition attached to any such licence.

(7) If any condition attached to a licence to hold surface rights granted under this section is not complied with or ceases to be complied with or is infringed, or if the oil rights thereunder become liable to be dealt with in the manner provided in section 8, such surface rights shall be liable to be dealt with in the manner provided in section 8.

General provisions as to control of oil rights.

7. (1) If the holder of any oil rights, not being an alien or being an alien who satisfies the condition of subsection (2) of section 4, shall be, or shall become, controlled directly or indirectly by an alien who does not satisfy the condition of subsection (2) of section 4, such oil rights shall be liable to be dealt with in the manner provided in section 8.

(2) Any oil rights, the holder of which is not an alien, shall be liable to be dealt with in the manner provided in section 8 if, while they are being operated—

- (a) the majority of the persons engaged in their operation are not at all times British subjects; or

- (b) when the holder is a company, one at least of the directors and the chief local representative are not at all times British subjects.

8. (1) In this section—

“oil rights” and “surface rights” mean respectively oil rights and surface rights which, in accordance with the preceding provisions of this Ordinance, have become liable to be dealt with in the manner provided in this section, and include any oil rights or surface rights which have been acquired by the conveyance, assignment, transfer, devolution, lease, sub-lease, or other disposition of the oil rights or surface rights which have become so liable ;

Powers in relation to oil rights or surface rights which are liable to be dealt with under this section.

“holder” means the person who was the holder of oil rights or surface rights at the time when they became liable to be dealt with in the manner provided in this section.

(2) It shall be lawful for the Supreme Court, in a suit instituted by the Attorney General, to make, in relation to oil rights or surface rights, all or any of the orders hereinafter mentioned which may appear to the Court to be just.

(3) The defendants in such suit shall be the holder and such persons (if any) as may appear to have an interest in the oil rights or surface rights or in the making of any such order.

(4) In any such suit the Court may—

(a) order that all or any of the oil rights or surface rights shall cease and determine ;

(b) with regard to any oil rights or surface rights to which an order under the preceding paragraph relates—

(i) order that such oil rights or surface rights shall vest in His Majesty: Provided that no such order shall be made in respect of any oil rights or surface rights which have been disclaimed by the Attorney General on behalf of His Majesty by written notice of disclaimer filed in the suit ;

(ii) order that such oil rights or surface rights shall vest in such person and for such interests as to the Court may seem just ;

(iii) provide for all consequential matters for which the Court may think fit to provide, including costs : Provided that in no case shall costs be awarded against the Attorney General or the Crown except on the issue as to whether the oil rights or surface rights are oil rights or surface rights within the definition thereof in subsection (1) of this section.

(5) In regard to orders under the preceding subsection, the following provisions shall have effect—

(a) any such order may be granted upon such terms as to the Court may seem just ;

(b) any such order for the vesting of oil rights or surface rights shall operate to vest such oil rights or surface rights according to the tenor of the order without any conveyance or assignment for the purpose.

**Evidence.**

**9.** A certificate purporting to be signed by the Colonial Secretary or the Deputy Colonial Secretary on behalf of the Governor that any country is a country the laws and customs of which do not permit British subjects or companies incorporated in His Majesty's dominions or companies incorporated in that country controlled directly or indirectly by British subjects or by companies incorporated in His Majesty's dominions to acquire, hold and operate oil rights on conditions which are reasonably comparable with the conditions upon which such rights are granted to aliens under this Ordinance shall, unless it is proved that the signature on such certificate is not that of the Colonial Secretary or Deputy Colonial Secretary, as the case may be, be conclusive proof of the facts stated therein.

**Service of documents.**

**10.** (1) Any notice, requisition or other document required or permitted by this Ordinance to be given or

communicated shall be deemed to have been sufficiently given or communicated if—

- (a) it is delivered to, or left with, the person to whom it is required or permitted to be given or communicated, or if it is delivered to, or left with, any person at the usual place of abode or business of the person to whom it is required or permitted to be given or communicated; or
- (b) when it is required or permitted to be given or communicated to a company or firm it is delivered to, or left with, any person at the registered office or usual place of business of such company or firm; or
- (c) it is addressed in a prepaid registered letter to the person, company or firm to whom it is required or permitted to be given or communicated, at the usual place of abode or business of such person or the registered office or usual place of business of such company or firm, as the case may be.

(2) Where two or more persons are co-holders of any oil rights and any notice, requisition or other document is required or permitted by this Ordinance to be given or communicated to the holder of such oil rights, such notice, requisition or other document shall be deemed to have been sufficiently given or communicated if it is given or communicated in the manner provided in this section to any one of such co-holders.

(3) Any notice or requisition shall be deemed for the purposes of this Ordinance, until the contrary is proved, to have been given by the Governor, if it purports to be signed by the Colonial Secretary or the Deputy Colonial Secretary.

**11.** The Governor in Council may make Regulations for all or any of the purposes of this Ordinance and in particular and without prejudice to the generality of this power for regulating—

- (a) the making of applications for licences under the Ordinance; and
- (b) the fees to be taken for things done under the Ordinance.