

TASMANIA
DEPARTMENT OF MINES



Notes on procedures for
occupation of land for
mining purposes.



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DEPARTMENT OF MINES — TASMANIA

NOTES ON PROCEDURES FOR OCCUPATION OF LAND FOR MINING PURPOSES

INTRODUCTION

The legislation relating to the occupation of land for mining purposes in Tasmania is the Mining Act 1929, and the Regulations thereunder.

Unoccupied Crown Land may be marked-out as a Miner's Right Claim, a Prospecting Claim, a Special Prospector's Licence, an Exploration Licence or as a Mineral Lease.

It should be noted that the expression 'Unoccupied Crown Land' includes all land held under a Crown lease or Crown licence but not land held under the Mining Act 1929.

Certain private lands may be entered for prospecting either by agreement with the owner and occupier or under authority of a Permit to Enter and Search issued by the Director of Mines. Other private lands may be entered only with the consent of the owner and occupier.

Land set aside or dedicated for public purposes is generally excluded from occupation, but there are circumstances under which limited occupation may be secured. Land reserved from occupation by proclamation under the Mining Act 1929, may not be marked-out for mining purposes while such proclamation remains in force.

Crown Leases and Crown Licences may be granted over land held as mining tenements under the Mining Act 1929, subject to the right of objection by the holder of the mining tenement and conditionally that there is no interference with mining operations.

If it is desired to prospect on unoccupied Crown Land a Prospector's Licence is sufficient, but before productive mining operations are commenced a Miner's Right or a Lease is necessary.

Private land may be entered for prospecting with the written consent of the owner and occupier or, except in the case of certain lands, under the authority of a Permit to Enter and Search obtainable from the Director of Mines.

The various forms of occupation are referred to in more detail hereunder.

HOLDERS OF MINING TENEMENTS

Miner's Rights, Prospectors' Licences, Leases and Water and Easement Licences and Permits to Enter and Search may be issued to persons of or above the age of eighteen (18) years. Miner's Rights and Prospector's Licences may not be issued in the name of a Company, and except in the case of a Consolidated Miner's Right, are issued in the name of one person only.

Leases and Water and Easement Licences may be issued in the name of an individual or individuals not exceeding four (4) in number or in the name a registered company.

SHAPE OF MINING TENEMENTS

Wherever circumstances permit every mining tenement shall be in the form of a square with the boundary lines running to the cardinal points.

MARKING-OUT AND TAKING POSSESSION OF MINING TENEMENTS

(1) Except where otherwise specially provided, every person taking possession of a mining tenement shall—

I. Mark one of the angles of the land comprising the mining tenement of which he desires to take possession—

(a) by making a conspicuous and readily visible mark, not less than six (6) feet above the ground, upon a tree not less than six (6) inches in diameter, situated at such angle or

(b) by erecting upon such angle a post not less than three (3) inches across, each way, and projecting not less than three (3) feet from the ground.

II. Either—

(a) blaze a clearly defined line for a distance of five (5) chains, or for the full length of the boundary if less than five (5) chains, as nearly as may be along the two (2) boundaries of the proposed tenement which form the angle at which such mark as aforesaid is made, or

(b) if the country is such that it is impracticable to blaze such lines—

(i) cut a trench three (3) inches deep; or

(ii) if the country is too rocky for trenches place a line of stones three (3) inches high, and not less than six (6) inches wide for a distance of three (3) feet along each of the boundary-lines aforesaid, commencing from the angle formed by them.

III Affix to such tree or post as aforesaid a legible and durable notice setting forth the following particulars:—

- (a) The purpose for which possession is taken;
- (b) The area of land which he intends to take possession;
- (c) The name of the person on whose behalf the same is marked-out;
- (d) The position of the posted notice in relation to the land marked-out;
- (e) The date of the marking-out; and
- (f) The name of the person marking-out the same,

in accordance with the prescribed form appropriate to the particular case, and shall maintain such notice at all times during the pendency of his application if the possession is taken for the purpose of an application;

IV Within three (3) days, or as soon as practicable, after the marking off, lodge notice thereof, in duplicate, with a Registrar of Mines, or send the same to him by registered post, in the appropriate form prescribed for the particular case;

v Where the purpose of the marking-out necessitates the making of an application for any lease or licence, lodge with, or send by registered post to, a Registrar, or to the Director of Mines at Hobart—

- (a) the required application in the appropriate form prescribed therefor;
- (b) all fees, rents, and other moneys, if any, payable therewith, within seven (7) days after the marking out, or as soon thereafter as practicable; and
- (c) when required by the Director shall furnish a plan showing the position of the datum peg and the approximate boundaries of the lease or licence.

(2) Except where otherwise specially provided, all such boundary lines as aforesaid, wherever practicable, shall run east-and-west and north-and-south respectively.

(3) Where land is marked-out to be held under Miner's Right, every angle of the claim shall be marked at the time of, or within seven (7) days after, the marking-out; and, where practicable, each boundary line shall be blazed for its whole length.

(4) The post or tree marking the angle at which a mining tenement is marked out shall be called the datum post, and the determination of the area and boundaries of the tenement shall be calculated therefrom.

(5) Where application is made for a Special Prospector's Licence or an Exploration Licence and a licence is granted for an area less than applied for, the holder shall within seven days after the issue of the licence, affix an amended notice to his datum peg showing the area authorised to be prospected.

(6) Where the mining tenement to be marked out is a water-right, the datum-post shall be as near as is practicable to the spot at which it is proposed to divert the water, and the notice shall specify the number of sluice-heads of water for which application is to be made, and the nature and locality of the mining tenement to which the water-right is intended to be appurtenant; but no trenches or blazes shall be required.

(7) Where application is made for a water licence, and a water-race is required in relation thereto, the application for an easement licence may be included in the application for a water licence, and one datum post shall be sufficient for both; but the notice shall specify the approximate length and direction of the proposed race.

1. PROSPECTING AND MINING TITLES ON UNOCCUPIED CROWN LAND.

(a) MINERS' RIGHTS

Miner's Rights are obtained from Registrars of Mines and certain authorised Sub-Collectors of Revenue upon payment of a fee of five shillings (5s.) per annum. The holder is authorised to mark-out and take possession of one-half an acre of unoccupied Crown Land for productive mining purposes. Conditions of occupation require the continuous employment of one (1) man for forty (40) hours per week except during a mining holiday or when an exemption has been obtained from a Director of Mines. If mining operations are suspended for a continuous period of three (3) days except during a period of exemption or during a mining holiday the land shall be deemed to have been abandoned.

Provision is made for the issue of Consolidated Miner's Rights to any number of persons not exceeding ten (10) and entitle the holders to mark-out and work a claim equal in area to as many single claims as there are persons in the party to whom the Consolidated Miner's Right is issued. The same rights and powers are conferred as by a Miner's Right held by one (1) person.

(b) PROSPECTOR'S LICENCES.

Prospector's Licences are obtainable from Registrars of Mines and certain authorised Sub-Collectors of Revenue upon payment of a fee of ten shillings (10s.) per annum. The holder is authorised to mark-out and take possession of fifty (50) acres of unoccupied Crown land for prospecting purposes only or one hundred (100) acres for coal or oil. Samples may be removed for purposes of testing and assay only. Conditions of occupation require the continuous employment of one (1)

man for forty (40) hours per week except during a mining holiday or when an exemption has been obtained from the Director of Mines. If mining operations are suspended for a continuous period of five (5) days except during a period of exemption or during a mining holiday the land shall be deemed to have been abandoned.

(c) COAL AND OIL LICENCES.

The maximum area of unoccupied Crown land which may be granted as a coal and oil licence is 3200 acres. The land must be marked out and application made to the Director of Mines in the prescribed form accompanied by an application fee of £1, and rental at the rate of twopence (2d.) per acre.

Licences are granted for not exceeding two years but may be renewed for a further one year upon payment of a fee of £1, together with rental at one penny (1d.) per acre.

The holder is required to commence prospecting operations within 90 days of the issue of the licence and to furnish a monthly report of operations.

The licence may be cancelled for failure to comply with the conditions of the licence.

(d) SPECIAL PROSPECTORS' LICENCES.

Where the area available under a Prospector's Licence is insufficient and the applicant is able to demonstrate his ability to prospect a larger area and to satisfy conditions imposed in respect of prospecting and employment, the Minister upon the recommendation of the Director of Mines and subject to certain specific conditions may grant a Special Prospector's Licence to cover an area of unoccupied Crown land not exceeding twenty-five (25) square miles. Such licences are issued for a period not exceeding six (6) months, but on satisfying the conditions of issue extensions for further terms up to an aggregate of twelve months may be granted.

Fees payable on issue or extension is ten shillings per square mile or part thereof.

The Minister may revoke a licence for failure of the holder to comply with the conditions contained in the licence.

Licences may be transferred with the consent of the Minister.

Licences may be held in the name of a registered Company and more than one licence may be held.

With the consent of the holder of a licence, a Prospector's Licence, Miner's Right, Mining Lease, Water Licence or Easement Licence may be granted or exercised as if the Special Prospector's Licence did not exist.

The applicant is required to mark-out the area in the manner described in paragraph (1) and within seven days advertise notice of

intention to apply by publication in a newspaper. Within fourteen days of the date of the published notice application should be made to the Director of Mines, Hobart, accompanied by a copy of the newspaper, the prescribed fee and a plan of the area.

(e) EXPLORATION LICENCES.

An Exploration Licence for such area and for such period as the Minister may deem fit may be granted upon the recommendation of the Director of Mines. The application which must be made to the Director of Mines must be accompanied by a written statement of the proposed programme of work on the area applied for. The holder shall engage in aerial, geological or geophysical surveys and other exploration as the Minister may direct or approve and shall furnish such reports and maintain such records as may be required.

Exploration Licences apply to Crown lands and to private lands which normally would be subject to the issue of a Permit to Enter and Search. No permit is required but security must be lodged with the Director of Mines before entering private lands as though a permit had been issued.

Fees payable on issue and extensions of an Exploration Licence are ten shillings (10s.) per square mile for the first twenty-five (25) square miles and one shilling (1s.) per square mile thereafter, but further rent and fees may be charged as determined by the Minister.

The Minister may revoke a licence for failure of the holder to comply with the conditions contained in the licence.

Licences may be transferred with the consent of the Minister.

Licences may be held in the name of a registered Company and more than one licence may be held.

With the consent of the holder of a licence, a Prospector's Licence, Miner's Right, Mining Lease, Water Licence or Easement Licence may be granted or exercised as if the Exploration Licence did not exist.

The applicant is required to mark-out the area in the manner described in paragraph (1) and advertise within seven days notice of intention to apply by publication in a newspaper. Within fourteen days of the date of the published notice application should be made to the Director of Mines, Hobart, accompanied by a copy of the newspaper, the prescribed fee and a plan of the area.

(f) MINERAL LEASES.

Mineral leases are limited to a maximum of eighty (80) acres in each lease, although the number of such leases is not limited. Provision exists for consolidation where leases are contiguous and it can be shown that consolidation will provide greater facilities for working.

Leases are to be marked-out and application in the prescribed form lodged with the Director of Mines, Hobart, or a Registrar of Mines, accompanied by an application fee of One Pound (£1), rent for one half-year at the rate of five shilling (5s.) per acre per annum in the case of alluvial minerals and at the rate of ten shillings (10s.) per acre per annum in other cases, and the prescribed survey fee. Survey fees are on a sliding scale according to area and range from eight pounds (£8) for a lease of five (5) acres to Thirty pounds twelve shillings (£30 12s.) for a lease of eighty (80) acres.

Leases are granted for a term of not exceeding twenty-one (21) years with the right of renewal. An annual rent of five shillings (5s.) per acre per annum is payable in the case of leases for alluvial minerals but for mining other minerals the annual rent is ten shillings (10s.) per acre.

Leases contain a labour covenant which requires the lessee to employ one man for each ten acres or part thereof for forty hours per week in each period of twelve months in the term of the lease. Where the lessee uses steam power, water power, electric power or other power or horses for driving or propelling machinery, each ten units of horsepower or each horse so used shall be deemed to be equivalent to the employment of one man.

Provision is made for the Director of Mines to grant an exemption from the labour covenant.

Leases are subject to forfeiture for failure to comply with the labour covenant.

(g) STONE LEASES.

The maximum area which may be held in any one Stone Lease is 320 acres but provision exists for consolidation of contiguous leases where it can be shown that consolidation will provide greater facilities for working.

Leases are to be marked out and application in the prescribed form lodged with the Director of Mines, Hobart, or a Registrar of Mines, accompanied by an application fee of £1, rent for a half-year at the rate of 5s. per acre per annum, and survey fees in accordance with the prescribed scale.

Leases are granted for a term not exceeding 21 years with the right of renewal. Annual rental of 5s. per acre per annum is payable.

A royalty at a prescribed rate is payable on each cubic yard of sand or gravel taken under a Stone Lease.

Leases contain a labour covenant which requires the holder to employ one man for each ten acres or part thereof comprised in the lease for a period of not less than three months in the aggregate in each period of twelve months in the term of the lease.

Where the lessee uses steam power, water power, electric power or other power or horses for driving or propelling machinery each ten units of horsepower or each horse so used shall be deemed to be equivalent to the employment of one man.

Provision is made for the Director of Mines to grant an exemption from the labour covenant.

Leases are subject to forfeiture for failure to comply with the labour covenant.

(h) COAL LEASES.

Coal Leases are limited to 640 acres in each lease, but provision exists for consolidation where it can be shown that consolidation will provide greater facilities for working.

Leases are to be marked out and application made to the Director of Mines, Hobart, or a Registrar of Mines, accompanied by an application fee of £1, rent for a half-year at the rate of 5s. per acre per annum, and survey fees in accordance with the prescribed scale.

Leases are granted for a term of not exceeding twenty-one (21) years with the right of renewal. An annual rental of 5s. per acre per annum is payable.

Leases contain a labour covenant which requires the lessee to employ one man for each 80 acres or part of 80 acres comprised in the lease for forty hours per week in each period of twelve months in the term of the lease.

Where the lessee uses steam power, water power, electric power or other power or horses for driving or propelling machinery each ten units of horsepower or each horse so used shall be deemed to be equivalent to the employment of one man.

Provision is made for the Director of Mines to grant an exemption from the labour covenant.

Leases are subject to forfeiture for failure to comply with the labour covenant.

(i) OIL LEASES.

The same provisions as relate to a coal lease apply but in addition the holder must covenant to erect on the lease within twelve months of the commencement of the term a boring plant capable of boring to a depth of not less than 1,000 feet.

The prescribed royalty is 5% of the gross value of all crude oil won from the land comprised in the lease, but no royalty is payable in respect of the first 50,000 gallons of oil.

(j) WATER AND EASEMENT LICENCES.

Water and Easement Licences may be issued to the holders of Miner's Rights or Mineral Leases. A marking-out notice is required to be erected at the point of intake of the water, or in the case of a dam or easement at one corner thereof, and an application submitted to the the Director of Mines, Hobart, or a Registrar of Mines. Fees payable consist of an application fee of one pound (£1), rent for a half-year at the rate of one pound (£1) per sluice-head per annum for water and five shilling (5s.) per acre per annum for dams and easements, and the prescribed survey fee. The survey fee for water races is three shillings and six pence (3s. 6d.) per chain with a minimum payment of six pounds eight shillings (£6 8s.). The survey fee payable on dams and easements is at the same rate as applied to mineral leases.

Licences are granted for a period of twenty-one (21) years with the right of renewal. An annual rent at the rate of one pound (£1) per sluice-head per annum for water and five shillings (5s.) per acre per annum for easements is payable.

Water and Easement Licences contain a user covenant, and if the holder fails during any period of twelve (12) months to use the licence for the purposes for which it is granted the licence is liable to forfeiture by the Warden's Court on application being made by any person.

(k) TRANSFER OF LEASES AND LICENCES.

Transfers of applications for leases and of mineral leases may be arranged through the Director of Mines, Hobart. The fee payable on the transfer of an application is ten shillings (10s.) and of a lease one pound (£1), together with stamp duty on the consideration, or value of the lease where no consideration is payable, at the rate of ten shillings (10s.) for every fifty pounds (£50) or part of such consideration or valuation.

2. PROSPECTING AND MINING TITLES ON CROWN LANDS LEASED OTHER THAN FOR MINING.

Crown leases and licences are available under Prospector's Licences, Special Prospector's Licences, Exploration Licences, Miner's Rights and Leases as if such were vacant Crown Land, but the holder of the Mining Tenement shall be responsible for payment of compensation to the Crown Lessee or Crown licensee if and when he damages improvements which were in existence at the time the mining tenement was marked out. The compensation will be assessed by the Warden of Mines or the Warden's Court.

3. PROSPECTING ON PRIVATE LAND.

(a) The consent in writing of the owner and occupier of the private land must be obtained and forwarded to the Department; or

(b) A Permit to Enter and Search obtained from the Director of Mines.

The holder of a permit to enter and search is authorised to enter the land specified therein for the purpose of undertaking prospecting operations and making application for a lease. Permits may be issued only in respect of the following stones, namely, quartz, slate, limestone, dolomite, gypsum, barytes and phosphate rock.

(c) Except with the consent of the owner and occupier thereof Permits to Enter and Search may not be issued in respect of land which—

- I Is used as a garden or orchard;
- II Is in use as a cultivated field or is under crop at the time application is made for such lease; or
- III Has upon it any dwelling or other substantial building, or any natural or artificial lake, or any dam, reservoir, or artificial pond, or is within one hundred yards on the surface from any of the things herein enumerated.

Permits to Enter and Search are issued for a period of six (6) months, but an extension for a further six (6) months may be granted upon the Director of Mines being satisfied that bona-fide prospecting operations have been carried out during the initial term of the permit.

The fee payable upon application is one pound (£1) and the Director of Mines may require a deposit to be lodged as security for damage which may result from exercise of the powers conferred by the permit. A further fee of one pound (£1) is payable upon extension of the term of the permit.

4. MINING ON PRIVATE LAND.

Any person who has reasonable grounds for believing that any mineral, coal, oil, or stone referred to in paragraph 3 (b) above may be found on private land has the right to enter the land to mark out a lease without constituting a trespass, unless wanton, unnecessary or unreasonable damage is caused to the property. The person marking out is liable for any damage he may cause in the exercise of this right.

It will be noted that this provision relates to marking out only. If it is desired to prospect, a Permit to Enter and Search referred to in paragraph 3 is necessary.

This provision does not authorise entry on the lands described in paragraph 3 (c) above. The consent of the owner and occupier is necessary in these cases.

(a) *Miner's Right*

If a Miner's Right is marked out under the above provision compensation must be secured to the owner and occupier by agreement in writing or determined by the Warden or the Warden's Court before mining is commenced.

(b) *Leases*

Before any lease may be issued in respect of an application marked out in accordance with the above provision an agreement securing compensation to the owner and occupier must be lodged with the Director of Mines, Hobart. Where such an agreement cannot be arranged mutually provision exists for the compensation payable to be determined by the Warden of Mines or the Warden's Court.

(c) *Where Permit or Owner's Consent (see (3) above) is held:*

The provisions of (a) and (b) apply to the holder of a permit to enter and search who after prospecting desires to apply for a lease and also to a person who marks out a lease with the written consent of the owner and occupier.

REWARDS.

Provision exists subject to certain conditions for the grant of a reward lease, free from rental, in respect of a valuable discovery of any mining product capable of being profitably mined at the place where the discovery is made.

Where as a result of a valuable discovery of any mining product a mining town or settlement has been established which has comprised over any period of two (2) years at one time an average population of not less than three hundred (300) persons, application may be made for a monetary reward. The amount of such reward shall be proportionate to the importance of the discovery and shall be as determined by a resolution of both Houses of Parliament. The reward payable in any case shall not exceed the sum of ten thousand pounds (£10,000).

DISPOSAL OF LESSEE'S PROPERTY LEFT ON LAND.

Where the interest of a lessee in any lease has been determined and the lessee has left on the land any buildings, machinery or mining products the property of the lessee such property may be removed at any time before the expiration of six months after such determination unless the Minister otherwise directs.

If the property is not removed within the period indicated it becomes the property of Her Majesty.

Any time before the expiration of the six months referred to above the person entitled to remove property may apply to the Director of Mines for a storage or treatment lease to enable him to keep the buildings, machinery or mining products on so much of the land formerly leased as the Minister considers necessary. The rent payable will be dependent upon the area to be occupied and will be at the rate applicable to the former lease or ten shillings per quarter whichever is the greater.

NAMES OF MINES.

Provision has been made to empower the Director of Mines to require a mine to be named and to ensure that names of mines are not similar.

GENERAL.

Registrars of Mines are located at Hobart, Launceston, Zeehan, Devonport, Derby and St. Helens and Wardens of Mines at Hobart, Launceston and Devonport.

Inspectors of Mines are located at Hobart, Launceston, Burnie and Queenstown.

Geologists are located at Hobart, Sheffield and Zeehan.

Mineral samples may be forwarded for analysis to the Chief Chemist and Metallurgist, Department of Mines, 287 Wellington-street, Launceston. Metallurgical research and ore dressing investigations will also be undertaken by arrangement.

Further information may be obtained on application to the Director of Mines, Hobart.

Department of Mines,
Hobart, 27th July, 1959.