



ST HELENA

REVISED EDITION OF THE LAWS, 2017

LAND OWNERSHIP & USE

MINING ORDINANCE, 1923¹

*Ordinance 10 of 1923
In force 17 December 1923*

Amended by Ordinances 2 of 1967, 8 of 1981

Subsidiary legislation:

PROSPECTING REGULATIONS, 1927

Legal Notice 1 of 1927

MINING ORDINANCE, 1923

AN ORDINANCE to regulate prospecting and mining in St Helena.

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Short title

1. This Ordinance may be cited as the Mining Ordinance, 1923.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

Interpretation

- 2.** In this Ordinance, unless the context otherwise requires—
- “lands”** include all lands in St Helena except—
- (a) lands dedicated to or set apart for any public purpose; and
 - (b) lands declared by the Governor by notice in the *Gazette* to be exempted from the operation of this Ordinance;
- “minerals”** means all minerals or mineral substances other than gold or precious stones which are of commercial value, except mineral oils and those required locally for building purposes, road metal or agriculture;
- “mining lease”** means a lease granted for the purpose of mining for precious metals or precious stones or for any purpose connected with such mining;
- “prospect”** means to search for precious metals, precious stones, baser metals and minerals on any non-exempted lands;
- “prospector”** means the holder of a prospecting licence from the Governor entitling the holder to prospect;
- “regulations”** means regulations made under this Ordinance.

Rights of Crown

- 3.** Nothing in this Ordinance abridges or controls the rights and powers of Her Majesty in respect of precious metals, precious stones, baser metals and minerals otherwise than in this Ordinance is expressly provided.

Appointment of Inspector of Mines

- 4.** The Governor may appoint an officer to be Inspector of Mines and other officers for the purposes of this Ordinance and may make regulations prescribing their powers and duties.

Prospecting licence and fee

- 5.** (1) The Governor may issue one or more prospecting licences in Form 1 in the Schedule to any person, and in the case of a company to any person duly authorised by the company permitting the person to prospect for precious metals, precious stones and baser metals and minerals on any non-exempted lands.
- (2) A prospecting licence -
- (a) must be issued for one district only and upon payment in advance of the sum of £6 ;
 - (b) continues in force for 6 months unless cancelled; and
 - (c) may be renewed for successive periods of 6 months on the same terms at the discretion of the Governor.

Limitation of area to be prospected

- 6.** (1) A prospector must prospect only within the area or lands comprised in the prospecting licence, to the satisfaction of the Governor, and in accordance with any regulations.

(2) A prospector who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14; and cancellation of the prospecting licence at any time.

Compensation for damage

7. Compensation must be paid by the prospector to any inhabitants of the area or lands comprised in the prospecting licence, at a rate the Governor considers to be fair and reasonable, for any loss or damage caused to the inhabitants by the prospector in the course of prospecting.

(2) A prospector who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14.

Prospecting on private lands

8. (1) A person who is not the owner must not prospect upon any lands in private ownership until the person has entered into a bond in Form 2 in the Schedule in an amount, with or without sureties, the Governor determines for the due and proper repair of any damage done to the land in the course of such prospecting and for the payment of any sums due by the prospector.

(2) A prospector who enters upon private lands for the purpose of prospecting, must immediately notify the owner in writing of the fact.

(3) A prospector who fails to comply with subsection (1) or (2) commits an offence.
Penalty: As provided in section 14.

Prospector or owner to report discovery of precious metals, etc.

9. Every prospector or owner who has a prospecting licence must report to the Governor within 14 days any discovery which the prospector or owner has made of precious metals or precious stones upon any area or lands comprised in the licence, or upon any other lands.

(2) A prospector or owner who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14.

Mining and mineral leases

10. (1) The Governor may grant to an owner of land, or to any person who has prospected in accordance with this Ordinance to the satisfaction of the Governor, one or more mining leases upon terms prescribed by regulations.

(2) The Governor may grant a mineral lease to any person upon terms prescribed by regulations.

Owner of land to be notified when mining or mineral lease is granted

11. (1) The owner of any land over which it is proposed to grant a mining or mineral lease must be duly notified.

(1A) The owner may within one month after receiving such notice lodge objections to the grant of such lease for decision of the Supreme Court.

(2) The owner of any land over which a mining or mineral lease has been granted is entitled to receive one-third of the rent accruing from the lease to the Government.

(3) The owner of any land over which a mining or mineral lease has been granted may apply to the Governor for the cancellation of the lease on the ground of improper or insufficient working or for any other sufficient cause.

Payment of royalty

12. There is payable to the public revenue a royalty as prescribed by the Governor in Council upon the gross output of all precious metals and precious stones and all baser metals or minerals found in and extracted from any land, and the Governor in Council may alter or amend any such royalty and prescribe the payment of other royalties instead.

Governor in Council may make regulations

13. (1) The Governor in Council may make regulations with regard to the following matters—

- (a) defining generally the size and character of areas in respect of which prospecting licences and mining or mineral leases may be granted;
- (b) any matters required by this Ordinance to be prescribed by regulations and any matters appearing to the Governor in Council to require the making of regulations to give effect to this Ordinance.

(2) Regulations under subsection (1) take effect from the date of their publication in the *Gazette* but are subject to the approval of a Secretary of State. A regulation that is disapproved by a Secretary of State continues to have effect until notice of the disapproval has been received and published by the Governor in the *Gazette*.

Penalty

14. A person who commits any offence against this Ordinance or the regulations is liable to a fine of £250 or imprisonment for 3 years, or both.

Offences

15. All offences against this Ordinance may be tried on indictment in the Supreme Court or summarily in the Magistrates' Court and must be prosecuted at the instance only of the Attorney General or other officer lawfully authorised for the purpose.

SCHEDULE (Sections 5 and 8)

FORMS

FORM 1
(Section 5)

PROSPECTING LICENCE

Licence is hereby granted to of
to prospect and search for precious metals, precious stones, ores, metals and other minerals on
certain lands, viz.—
[specify the lands]
during the period from to
The licensee has paid in advance the sum of £

Signed
Governor

FORM 2
(Section 8)

BOND

On the day of, 20..... A.B. residing at
..... acknowledges himself/herself to be indebted to our
Sovereign Queen in the sum of
and C.D. and E.F. severally acknowledge themselves to be indebted to the Queen in the sum of
.....
to be levied on their and each of their goods and lands upon condition that the said A.B. must
make good and proper repair of any surface damage done by A.B. on any land upon which A.B
has obtained a licence to prospect and for the due payment of the sums accruing to any owner
from the said A.B.

Signed A.B.....
C.D.

E.F.....

Witnessed.....

MINING ORDINANCE, 1923

PROSPECTING REGULATIONS, 1927
(Section 13)

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Citation

1. These Regulations may be cited as the Prospecting Regulations, 1927.

Need for licence

2. It is an offence for a person to prospect on lands within St Helena or Ascension without the licence of the Governor.
Penalty: As provided in section 14 of the Ordinance.

Application for licences

3. The application for a prospecting licence must be addressed in the first instance to the Chief Secretary in the case of lands in the Island of St Helena, and in the case of lands in Ascension through the Administrator of Ascension.

Exclusive prospecting rights

4. The holder of a prospecting licence -
 - (a) may select any area not exceeding one square mile in extent within the limits of the district covered by the licence; and
 - (b) over such area has the exclusive right of prospecting for the duration of the licence.

Beacons

5. The area selected under regulation 4 must be delimited on the ground by beacons of white stones.

- (2) A person who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14 of the Ordinance.

One area for each licence

6. One area only may be occupied in virtue of one prospecting licence.

Maximum areas

7. No person directly or by any agent may occupy more than 3 such areas in St Helena or Ascension.

Registration of areas

8. (1) Areas delimited under regulation 5 must be registered as provided by regulation 9, and an application for registration must be submitted within 14 days of the delimitation of the area.

(2) A person who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14 of the Ordinance.

Applications for registration

9. Applications for registration should be submitted in the case of lands in St Helena to the Chief Secretary and in the case of lands in Ascension through the Administrator. They must be accompanied by a sketch map showing the area.

Abandonment of operations

10. (1) The holder of a prospecting licence must when abandoning operations -
- (a) fill up, fence, or secure to the satisfaction of the Governor all shafts, pits, holes, and excavations in a manner that will prevent persons or stock inadvertently entering the same; and
 - (b) generally repair any damage done by the holder on the lands over which the holder has prospected.

(2) A person who fails to comply with subsection (1) commits an offence.
Penalty: As provided in section 14 of the Ordinance.
