

CONFIDENTIAL.

MIN/GEO /1#27

0204/II

SECRETARIAT

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0204/II

(Formerly)

RADIO ACTIVE MINERALS.

CONNECTED FILES.

NUMBER

Y. E.

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You will see from folio 61 that a very long time ago the Secretary of State asked us to consider the repeal, at a convenient opportunity, of our legislation dealing with the prospecting and mining of radio-active minerals. The grounds for this request were that doubts had arisen as to whether the legislation passed by various Colonial Governments as a result of guidance from the Colonial Office was in fact in the best interests of securing the discovery and development of any radio-active deposits existing in Colonial territories.

2. The Secretary of State went on to suggest that we should fall back on the provisions of our normal mining legislation.

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3. With regard to our mining legislation, however, a curious situation arises inasmuch as Section 3 of Cap. 48 specifically excludes, in effect, quite considerable areas of the Falkland Islands. The extract from Browning's note quoted in folio 77A shows up the position very clearly. Consequently if we were to repeal the Radio-Active Minerals Ordinance then the Mining Ordinance as it stands would be insufficient to ensure that prospecting for or mining of radio-active minerals is not undertaken without proper authority, that Government is fully aware of the progress of such operations and that radio-active minerals are not exported without Government's permission. All of these objects are apparently still considered to be desirable by the Secretary of State (f. 61 refers). I put this point to Sir Henry Webb in folio 77 and you will see his reply at folio 80. In it he suggests that we should now repeal only Sections 9 and 10 of Cap. 55 (Radio-active Minerals Ordinance) which he describes as the restrictive sections.

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4. This would remove the one major factor that might discourage prospecting i.e. the power of the Governor to acquire the exclusive right to work minerals and would leave those sections intact that would ensure Government is kept informed of prospecting developments and that no radio-active minerals are exported without Government authority. This would I think conform with the Secretary of State's proposals.

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5. If you approve Sir Henry Webb's suggestion then I think we might go to the next Executive Council with a memorandum suggesting the introduction of a Bill repealing sections 9 and 10 of Cap. 55 at the next meeting of the Legislature. I attach a draft Memorandum for consideration.

6. Then there are Sir Henry's draft Regulations at f. 73A. My own view is that these Regulations might conveniently be left on file for use as and when (and if) the occasion and need arises. Discussion in Council might well be rather fruitless and I think too that consideration of the amount of royalty (Sir Henry suggests 5%) that should be charged under the regulations would be entirely academic in existing circumstances. We might well decide on very much more than 5%, almost certainly in the case of e.g. radio-active minerals - and even then it might be levied by means of an export tax.

A.G.T.
AGDE/MF 19/1/59.

HCS.

I think this file must have been destroyed in the fire ' PA.

What a pity in last Air on. EPA 31-3-59
e.g. 1.4.59.

MEMORANDUM NO. FOR EXECUTIVE COUNCIL

Radio-Active Minerals Ordinance

Government have been advised by the Secretary of State that doubts have arisen as to whether the legislation passed by various Colonial Governments as a result of guidance from the Colonial Office is in fact in the best interests of securing the discovery and development of any deposits of radio-active minerals that may exist in Colonial territories.

2. The objects of such legislation were in the first place to ensure that prospecting for or mining of radio-active minerals and ores were not undertaken without proper authority, that Governments were fully aware of the progress of such operations and radio-active minerals were not exported without Governmental permission. In the case of the Falkland Islands the relevant legislation is the Radio-active Minerals Ordinance (Cap. 55).

3. The Secretary of State has said that he has been advised that the first two objectives above could normally be safeguarded by the provisions of the mining legislation generally in force, though in some territories it might be desirable to ensure by amendments to the Mining Regulations or licence forms that Governments are kept ^{/more} fully acquainted with developments. The power to control exports of Radio-active minerals, however, continues to be necessary though in most cases adequate powers exist for this purpose outside the field of mining legislation.

4. The question has been referred to the Legal Adviser with special emphasis on the fact that so far as the existing mining legislation is concerned, as opposed to the Radio-active Minerals Ordinance, large areas of the Falkland Islands are specifically excluded from the provisions of the Mining Ordinance by virtue of Section 3. This Section ~~specifically~~ states that the Ordinance shall only apply to "unalienated Crown Lands and to lands the subject of existing Crown Grant or Crown Lease the effect of which is to confine the user of such land by the grantee or lessee to pastoral / purposes....."

purposes only and to reserve to the Crown all mines of silver, gold and other precious metals and all mines of coal or all diamonds and all mines of gold, silver and other metals and all mines of coal as the case may be".

5. If reliance is placed solely on the provisions of the Mining Ordinance, Government would not in all respects retain the necessary powers that are still considered desirable. Sir Henry Webb has therefore suggested that Government should repeal Sections 9 and 10 of the Radio-active Minerals Ordinance which are in themselves the restrictive sections. If this were to be done Government would still be left with the necessary powers to control prospecting or at least make it subject to licence, to require regular reports on operations and the notification of the discovery of Radio-active minerals and the necessary power to control exports.

6. In these circumstances Council is asked to consider the proposal that an amending Bill (draft attached) repealing Sections 9 and 10 of the Radio-active Minerals Ordinance should be introduced at the next meeting of the Legislature.

COLONIAL SECRETARY

AG:DI/MF

Draft.

A Bill
for
An Ordinance

Title. To amend the Radio-active Minerals Ordinance.

Date of commencement. (1959)

Enacting clause. BE IT ENACTED by the Legislature of the Colony of the Falkland Islands as follows:

Short title. 1. This Ordinance may be cited as the Radio-active Minerals (Amendment) Ordinance, 1959, and shall be read as one with the Radio-active Minerals Ordinance (hereinafter referred to as the principal Ordinance).

Cap. 55. Repeal of sections 9 & 10 of the principal Ordinance. 2. Sections 9 and 10 of the principal Ordinance are hereby repealed.

OBJECTS AND REASONS.

The object of this Bill is to repeal those sections of the Radio-active Minerals Ordinance that relate to the compulsory vesting in the Governor of the right to work minerals radio-active minerals and the acquisition of radio-active minerals and plants.