



TURKS AND CAICOS ISLANDS

CHAPTER 79
MINERALS (EXPLORATION AND
EXPLOITATION) ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 15 May 1998

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

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CHAPTER 79

MINERALS (EXPLORATION AND EXPLOITATION) ORDINANCE

(Ordinances 3 of 1984, 7 of 1989 and 9 of 1997)

AN ORDINANCE TO MAKE PROVISION AS TO THE EXPLORATION FOR AND EXPLOITATION OF THE MINERAL RESOURCES IN, AND SURROUNDING, THE TURKS AND CAICOS ISLANDS: AND FOR MATTERS CONNECTED WITH THOSE PURPOSES.

[12 January 1990] Commencement

PART I

PRELIMINARY

1. This Ordinance may be cited as the Minerals (Exploration and Exploitation) Ordinance. Short title

2. (1) In this Ordinance— Interpretation

“the Board” means the Physical Planning Board constituted under the Physical Planning Ordinance; Cap. 73

“books or papers” includes accounts, deeds, writings and documents;

“controlled waters” means—

(a) territorial waters; and

(b) the waters of any designated area;

“designated area” means an area designated by an order under section 4(2);

“enforcement notice” means a notice under section 19;

“exploit”, in relation to any mineral, means to carry out any activity with a view to working, carrying away, treating or converting that mineral; and “exploitation” shall be construed accordingly;

“explore” means to search or explore with a view to exploitation and to carry out such work as may be necessary for that purpose;

“installation” includes any floating structure or device maintained on a station by whatever means;

“licensee” means a person to whom a licence under section 7 has been granted and any other person to whom the rights conferred by a licence under that section may lawfully have been assigned;

“master”—

- (a) in relation to a hovercraft, means the captain;
- (b) in relation to submersible apparatus; means the person in charge of the apparatus;
- (c) in relation to an installation which is in transit, means the person in charge of the transit operation;

“mineral” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or in or under the seabed, and formed by or subject to a geological process, but does not include water;

“Minister” means the Minister for the time being responsible for shipping;

“modifications” includes additions, omissions and amendments;

“stop notice” means a notice under section 22;

“vessel” includes a hovercraft, submersible apparatus and an installation which is in transit.

(2) In this Ordinance, except in section 15, any reference to the Physical Planning Ordinance shall include a reference to that Ordinance as having effect by virtue of that section.

PART II

OFFSHORE MINERAL RIGHTS

Property in minerals beneath territorial waters vested in Crown

3. The property in any minerals beneath territorial waters is hereby vested in the Crown; and the Crown shall have the exclusive right of exploring for and exploiting any such minerals.

Rights to minerals outside territorial waters

4. (1) Any rights exercisable outside territorial waters with respect to seabed and subsoil and their mineral and natural resources are hereby vested in the Crown. (*Substituted by Ord. 7 of 1989*)

(2) The Governor may, by order, designate any area as an area within which the rights mentioned in subsection (1) are exercisable.

PART III

EXPLORATION FOR AND EXPLOITATION OF
MINERALS ON LAND AND OFFSHORE

5. (1) No person shall explore for or exploit any minerals—
- (a) in or under any land, including land under any waters within the Islands; or
 - (b) beneath any controlled waters,

Restriction on exploration for and exploitation of minerals

otherwise than under and in accordance with a licence granted under section 7 and with permission to develop granted under the Physical Planning Ordinance.

Cap. 73

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of \$25,000 or to imprisonment for a term of one year or to both, and on conviction on indictment to a fine of \$50,000 or to imprisonment for a term of two years or to both. (*Amended by Ords. 7 of 1989 and 9 of 1997*)

6. (1) An application for a licence under section 7 shall be made to the Governor in writing and shall be accompanied by a fee in such amount as the Governor shall determine and by such evidence in support of the application as the Governor may require.

Application for licence under section 7

(2) If any of the matters stated in the application or any further information supplied by the applicant, whether together with the application or at any other time, shall change after the application is made or after the information is given, but before the licence is granted, the applicant shall give notice in writing of the change.

(3) A person who, for the purpose of obtaining the grant of a licence under section 7, whether for himself or any other person—

- (a) furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular; or
- (b) causes or permits to be included in any book or paper a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of six months or to

both, and on conviction on indictment to a fine of \$5,000 or to imprisonment for a term of two years or to both. (*Amended by Ord. 9 of 1997*)

Licences to
explore for or
exploit minerals

7. (1) The Governor, on behalf of the Crown, may grant to such person as he thinks fit a licence to explore for or exploit such mineral or minerals as shall be specified in the licence in or under such land or in such part or parts of any controlled waters as shall be so specified. (*Amended by Ord. 7 of 1989*)

(2) A licence under this section shall be granted—

- (a) for such consideration, whether by way of royalty or otherwise, as the Governor may determine; and
- (b) subject to permission being granted under the Physical Planning Ordinance in respect of any development in pursuance of the licence.

(3) Subject to subsection (2) and section 10, a licence under this section may be granted for such terms and upon such conditions as the Governor thinks fit, in particular conditions—

- (a) requiring installations, or parts of installations, to be certified, by such person and in such manner as may be specified in the licence, to be fit for the purpose or purposes specified in the licence;
- (b) imposing requirements as to the survey, testing and inspection of installations in respect of matters covered or required to be covered by a certificate of fitness;
- (c) imposing any prohibition or restriction as respects installations or parts of installations which, in any respect, fail to comply with the licence;
- (d) requiring an installation to be in the charge of one or more persons appointed to be or act as manager of the installation, being persons having skills and the competence suitable for the appointment;
- (e) imposing requirements as to the safety of an installation and the prevention of accidents in or near them, and as to the safety, health and welfare of persons in or about the installation, whether or not present in the course of their employment;
- (f) imposing requirements as to the prevention of accidents as respects the transport of persons and things to or from an installation, as respects vessels or aircraft in the neighbourhood of the installation and as respects any operation or work, whether on or near the installation or in the water,

or on or below the shore or seabed under any controlled waters;

- (g) prescribing the duties of a licensee or of the manager of an installation for securing compliance with any requirements of the description mentioned in paragraph (e), and of maintaining order and discipline among the persons in or about the installation.

(4) Where at an installation there is an emergency endangering the seaworthiness or stability of the installation or otherwise involving risk of death or serious personal injury, the licensee concerned or the manager of the installation may take such measures as are necessary or expedient to meet or avoid the emergency; and no condition imposed under this section shall apply to prohibit or restrict the taking of any such measures by virtue of this subsection.

(5) The Governor shall publish notice of the granting of any licence under this section in the *Gazette* stating the name of the licensee and the situation of the area in respect of which the licence is granted.

8. (1) The Governor may by order provide that, in such cases and subject to such exceptions as may be prescribed by the order, any act or omission which—

Application of
criminal law

- (a) takes place on, under or above an installation in any controlled waters or within five hundred metres of any such installation; and
- (b) would, if taking place in the Islands constitute an offence under the law in force in the Islands,

shall be treated for the purposes of that law as taking place in the Islands.

(2) Subject to subsection (3), the Governor may by order provide that, in such cases and subject to such exceptions as may be prescribed by the order, a police officer shall on, under or above any installation in any controlled waters or any waters within five hundred metres of such installation have all the powers, protection and privileges which he has in the Islands.

(3) Subsection (2), shall be without prejudice to any other enactment affording any power, protection or privilege to police officers.

9. (1) The Governor may by order—

Application of
civil law

- (a) provide that, in such cases and subject to such exceptions as may be prescribed by the order,

questions arising out of acts or omissions taking place on, under or above any controlled waters in connection with the carrying out of any work in pursuance of a licence under section 7, shall be determined in accordance with the law in force in the Islands; and

(b) make provision for conferring jurisdiction with respect to such questions on courts in the Islands.

(2) Any jurisdiction conferred on any court under this section shall be without prejudice to any jurisdiction exercisable apart from this section by that or any other court.

Restriction of
works
detrimental to
navigation

10. (1) Subject to subsection (2), no person shall, in pursuance of a licence under section 7—

(a) construct, alter or improve any works on, under or over any part of the seabed of any controlled waters;

(b) deposit any object or any minerals or other materials on any part of the seabed of any controlled waters;

(c) remove any object or any minerals or other materials from any part of the seabed of controlled waters,

so that obstruction or danger to navigation is caused or is likely to result, except with the consent in writing of the Minister.

(2) The restriction imposed by subsection (1) shall not apply to the construction, alteration or improvement of any works more than twenty metres below the surface of the seabed.

(3) The Minister may, as a condition of considering an application for consent under this section, require to be furnished with such plans and particulars of the proposed operation as he may consider necessary; and on receipt of any such application he may cause notice of the application, and of the time within which and the manner in which objection to the application may be made, to be published in the *Gazette* and in such other manner as he may consider appropriate for informing persons affected or likely to be affected by the application.

(4) Before giving his consent under this section, the Minister may direct an inquiry to be held by such person as he shall appoint for the purpose of holding the inquiry.

(5) Where the Minister directs an inquiry to be held under subsection (3), he shall cause a notice of the time, date and place at which the inquiry is to be held to be published in the *Gazette* and in such other manner as he may consider appropriate for

informing interested persons; and any such person shall be permitted to attend the inquiry and to be heard at the inquiry.

(6) The person appointed to hold an inquiry under this section shall have the like powers as Commissioners acting under the Commissions of Enquiry Ordinance.

Cap. 21

(7) If the Minister is of opinion that any operation in respect of which application is made to him under this section will cause or is likely to result in obstruction or danger to navigation, he shall—

- (a) refuse his consent; or
- (b) give his consent subject to such conditions as he may think fit, having regard to the nature and extent of that obstruction or danger.

(8) A consent of the Minister under this section may be given so as to continue in force, unless renewed, only if the operation for which the consent is given is begun or completed within such period as may be specified in the consent; and any renewal of such consent may be limited in like manner.

(9) Any person who—

- (a) carries out any operation in contravention of subsection (1); or
- (b) contravenes any condition subject to which the consent of the Minister has been given under this section,

shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 and on conviction on indictment to a fine of \$5,000. (*Amended by Ord. 9 of 1997*)

(10) Without prejudice to any proceedings under subsection (9), where any person has constructed, altered or improved any works or deposited any object or any minerals or other materials in contravention of subsection (1) or of any condition subject to which the consent of the Minister has been given under this section, the Minister may serve a notice on that person requiring him, within such period (not being less than thirty days) as may be specified in the notice, to remove the object, minerals or other materials, as the case may be, or, if it appears to the Minister urgently necessary so to do, he may cause the works to be removed or altered or the object, minerals or other materials to be removed.

(11) If within the period specified in a notice under subsection (10) the person upon whom the notice is served fails to comply with the notice, the Minister may cause any works to be removed or altered or any object, minerals or other materials

to be removed; and shall be entitled to recover as a civil debt the expenses of such removal or alteration, as certified by him, from the person by whom the works were constructed, altered or improved, or the objects, minerals or other materials were deposited.

(12) A person who, for the purpose of obtaining the consent of the Minister under this section, whether for himself or any other person—

- (a) furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular; or
- (b) causes or permits to be included in any book or paper a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of six months or to both, and on conviction on indictment to a fine of \$5,000 or to imprisonment for a term of two years or to both. (*Amended by Ord. 9 of 1997*)

Safety zones
around offshore
installations

11. (1) The Governor may by order establish a safety zone around any installation which, or part of which, is maintained, or is in the course of being assembled or dismantled, in any controlled waters.

(2) A safety zone shall not extend more than five hundred metres from the installation to which it relates but, subject to that, may extend to outside controlled waters.

(3) A vessel shall not enter or remain in a safety zone except under and in accordance with the terms of an order or consent given by the Minister.

(4) If a vessel enters or remains in a safety zone in contravention of subsection (3), then, subject to subsection (5), the owner and master of the vessel shall each be guilty of an offence and liable on summary conviction to a fine of \$5,000 and on conviction on indictment to a fine of \$10,000 or to imprisonment for a term of two years or to both. (*Amended by Ord. 9 of 1997*)

(5) It shall be a defence for a person charged with an offence under this section to prove that the establishment of the safety zone was not, and would not on reasonable enquiry have become, known to the master.

Discharge of oil

12. (1) If any oil to which this section applies or any mixture containing not less than one hundred parts of such oil in a million

parts of the mixture is discharged or escapes into the sea as the result of any work carried out in pursuance of a licence under section 7, the person carrying out the work shall be guilty of an offence and liable on summary conviction to a fine of \$5,000 and on conviction on indictment to a fine of \$250,000. (*Amended by Ord. 9 of 1997*)

(2) It shall be a defence for a person charged with an offence under this section to prove—

- (a) in the case of a discharge from a place in his occupation, that it was due to the act of a person who was there without his permission (express or implied); and
- (b) in the case of an escape, that he took all reasonable care to prevent it and that, as soon as practicable after it was discovered, all reasonable steps were taken for stopping or reducing it.

(3) This section applies to—

- (a) crude oil, fuel oil and lubricating oil;
- (b) to heavy diesel oil as defined by the Minister by regulations under this section; and
- (c) such other description of oil as may be specified by such regulations; having regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged or allowed to escape into the sea.

13. The Wireless Telegraphy Ordinance shall apply to any installation in any controlled waters or any waters within five hundred metres of such installation as if those waters were within the Islands.

Wireless
telegraphy
Cap. 111

14. The Coast Protection Ordinance shall not apply to any work carried out in pursuance of a licence under section 7.

Coast Protection
Ordinance not to
apply to licensed
work
Cap. 85

PART IV

CONTROL OF LICENSED WORK
UNDER PHYSICAL PLANNING ORDINANCE

Application of
Physical
Planning
Ordinance to
licensed work
on, in or under
seabed
Cap. 73

15. (1) Subject to regulations made under subsection (2), the Physical Planning Ordinance shall apply—

- (a) to the carrying out of any work on, in or under the seabed of any controlled waters in pursuance of a licence under section 7 as it applies to the carrying out of any work on, in or under land within the Islands; and
- (b) to the making of any material change in the use of any structure (including an installation) or other land on, in, above or under the seabed of any controlled waters in pursuance of a licence under section 7 as it applies to the making of any material change in the use of a structure or other land within the Islands,

as if the expression “land” in that Ordinance included the seabed of any controlled waters; and the expression “development” in that Ordinance shall be construed accordingly.

(2) The Governor may by regulations under the Physical Planning Ordinance, as having effect by virtue of this section, provide that the provisions of that Ordinance shall have such effect subject to such further modifications as he thinks fit.

Deposit of refuse
or waste
materials

16. For the avoidance of doubt it is hereby declared that for the purpose of the Physical Planning Ordinance the deposit of refuse or waste materials on the seabed of any controlled waters involves a material change of the use thereof, notwithstanding that the seabed is comprised in a site already used for that purpose, if the specified area of the deposit is thereby extended or the height of the deposit is thereby extended and exceeds the level of the seabed adjoining the site.

Power to obtain
information

17. (1) The Board, or any person authorised by the Board in that behalf, may require a licensee or the manager of any installation to furnish the Board or that person with information about specified matters, being, if the Board or that person so requires, information verified in a specified manner, for the purpose of ascertaining whether, with respect to any installation or any licence under section 7, an offence under this Ordinance has been or is being committed.

(2) The power conferred by subsection (1) on the Board and on any person authorised under that subsection includes the power to—

- (a) require the production of any books or papers and to take copies of them or extracts from them;
- (b) require the production of samples of any minerals or other materials for examination by that or any other person.

(3) A person who refuses or neglects to comply with any requirement made by the Board or by a person authorised under subsection (1) in the exercise of the Board's or that person's powers under this section shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or imprisonment for a term of six months or to both.

(4) A person who, in purported compliance with a requirement made as mentioned in subsection (3)—

- (a) furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular; or
- (b) causes or permits to be included in any book or paper a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or imprisonment for a term of six months or to both, and on conviction on indictment to a fine of \$5,000 or to imprisonment for a term of two years or to both. (*Amended by Ord. 9 of 1997*)

18. (1) Any person duly authorised in writing by the Governor or the Board may at any reasonable time enter and inspect any land and any installation or works within any controlled waters for the purpose of ascertaining whether, with respect to such land, installation or works, an offence under this Ordinance has been or is being committed.

Rights of entry

(2) A person authorised under subsection (1) to enter and inspect any land, installation or works shall, if so required, produce evidence of his authority before entering that land or installation or inspecting those works.

(3) A person who wilfully obstructs a person acting in the exercise of his powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of \$1,000.

Enforcement
notices

19. (1) Where it appears to the Board that there has been a breach of planning control, the Board may serve a notice under this section (in this Ordinance referred to as an “enforcement notice”) requiring the breach to be remedied.

(2) For the purposes of this Ordinance, there is breach of planning control if any conditions subject to which permission has been granted under the Physical Planning Ordinance in connection with the exploration for or exploitation of any minerals have been contravened.

(3) An enforcement notice shall be served on the licensee under the licence to which the notice relates and shall specify—

- (a) the matters alleged to constitute a breach of planning control;
- (b) the steps required by the Board to be taken in order to remedy the breach so as to secure compliance with the conditions subject to which permission under the Physical Planning Ordinance was granted; and
- (c) the period for compliance with the notice, that is to say the period (beginning with the date when the notice takes effect) within which those steps are required to be taken.

(4) The steps which may be required by an enforcement notice to be taken include the demolition or alteration of any structure or works (including waste materials, refuse or other matters on the seabed) and the discontinuance of the carrying out of any work in pursuance of a licence under section 7.

(5) Subject to section 20, an enforcement notice shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(6) The Board may withdraw an enforcement notice (without prejudice to the power of the Board to serve another enforcement notice) at any time before it takes effect; and, if the Board does so, it shall give notice of the withdrawal of the licensee who was served with the notice.

Appeal against
enforcement
notice

20. (1) A licensee on whom an enforcement notice is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Magistrate’s Court against the notice on any of the following grounds—

- (a) that the matters alleged in the notice do not constitute a breach of planning control;

- (b) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;
- (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed.

(2) An appeal under this section shall be made by notice in writing to the Clerk to the Magistrate's Court, which shall indicate the grounds of the appeal and state the facts on which it is based; and on any such appeal the Magistrate's Court shall, if either the appellant or the Physical Planning Board so desire, afford to each of them an opportunity of appearing before, and being heard by, the Magistrate's Court.

(3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(4) On an appeal under this section, the Magistrate's Court may correct any informality, defect or error in the enforcement notice if it is satisfied that the informality, defect or error is not material.

(5) On an appeal under this section, the Magistrate's Court may quash the enforcement notice or vary any of the terms of the notice.

(Amended by Ord. 9 of 1997)

21. (1) Where an enforcement notice has been served on a licensee and any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, the licensee shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 and on conviction on indictment to a fine of \$5,000. *(Amended by Ord. 9 of 1997)*

Penalties for
non-compliance
with enforce-
ment notice

(2) If, after a licensee has been convicted under subsection (1), he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of an offence and liable—

- (a) on summary conviction to a fine of \$100 for each day following his first conviction on which any of the requirements of the enforcement notice remain unfulfilled; and
- (b) on conviction on indictment to a fine of \$500 for each day following his conviction, on which any of the requirements of the enforcement notice remain unfulfilled.

(Amended by Ord. 9 of 1997)

(3) The reference in subsection (1) to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance with the notice or such extended period as the Board may allow for compliance with the notice.

Power to stop further development pending proceedings on enforcement notice

22. (1) Where an enforcement notice has been served on a licensee, the Board may, at any time before the notice takes effect, serve on the licensee a further notice (in this Ordinance referred to as a “stop notice”) referring to, and having annexed to it a copy of, the enforcement notice and prohibit the licensee from carrying out or continuing any specified operations either alleged in the enforcement notice to be a breach of planning control or so closely associated with such operations as to constitute substantially the same operations.

(2) The operations which may be the subject of a stop notice shall include the deposit of refuse or waste materials where that is a breach of planning control alleged in the enforcement notice.

(3) A stop notice—

- (a) shall specify the date when it is to take effect, not being earlier than three nor later than fourteen days from the day on which the notice is first served;
- (b) in relation to the licensee on whom it is served, shall have effect as from that date or the third day after the date of service on him, whichever is the later; and
- (c) shall, without prejudice to subsection (6), cease to have effect when the enforcement notice takes effect or is withdrawn or quashed.

(4) If while a stop notice has effect in relation to a licensee, he carries out, or causes or permits to be carried out, any operations prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 and on conviction on indictment to a fine of \$5,000. (*Amended by Ord. 9 of 1997*)

(5) If an offence by a licensee under subsection (4) is continued after conviction he shall be guilty of a further offence and liable on summary conviction to a fine of \$100 for each day on which the offence is continued and on conviction on indictment to a fine of \$500 for every day on which the offence is continued. (*Amended by Ord. 9 of 1997*)

(6) The Board may at any time withdraw a stop notice, without prejudice to the Board’s power to serve another, by

serving notice to that effect on the licensee who was served with the stop notice; and the stop notice shall cease to have effect as from the date of service of the notice under this subsection.

23. (1) If, within the period specified in an enforcement notice for compliance with the notice, or within such extended period as the Board may allow, any steps required by the notice to be taken have not been taken, the Board may take those steps and may recover as a civil debt from the licensee on whom the notice was served any expenses reasonably incurred by the Board in doing so.

Execution and
cost of works
required by
enforcement
notice

(2) The Board may sell any minerals or other materials which have been removed by the Board when taking any steps in the exercise of the Board's powers under subsection (1) in relation to an enforcement notice served on any licensee if those minerals or other materials are not claimed by the licensee and taken away by him within three days of their removal by the Board.

(3) Where the Board sells any minerals or other materials under subsection (2), the Board shall pay the proceeds to the licensee to whom the minerals or other materials belonged after deducting the amount of any expenses recoverable by the Board from the licensee under subsection (1).

PART V

SUPPLEMENTARY

24. (1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

Offences by
body corporate

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

Service of
notices

25. Any notice or other document required or authorised to be served or given under this Ordinance may be served or given—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given;
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, or in a case where an address for service has been given by that person, at that address; or
- (d) in the case of a body corporate or other body, by delivering it to the secretary or clerk of that body at its registered or principal office, or sending it in a prepaid registered letter addressed to the secretary or clerk of that body at that office.

Failure to pay
royalties

26. (1) If a licensee fails to pay any royalty or other sum payable by the licensee under a licence under section 7 on or before the date on which that royalty or other sum is required to be paid under the terms of the licence, the Governor may at any time after that date, by notice served on the licensee, prohibit the removal or disposal of any mineral belonging to the licensee under the licence until the royalty or other sum, together with any interest due thereon under the terms of the licence, is paid or until an arrangement has been made acceptable to the Governor for the payment of the royalty or other sum and any such interest.

(2) The Governor shall cause a copy of any notice under subsection (1) to be published in the *Gazette*.

(3) If a licensee on whom a notice under subsection (1) has been served contravenes the notice, he shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 and on conviction on indictment to a fine of \$5,000; and if the contravention continues after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine of \$100 for each day on which the contravention is so continued and on conviction on indictment to a fine of \$500 for each day on which the contravention is so continued. (*Amended by Ord. 9 of 1997*)

(4) Without prejudice to subsection (3), any prohibition imposed on a licensee by a notice under subsection (1) may be withdrawn by the Governor by a subsequent notice served on the

licensee; and the Governor shall cause a copy of any notice under this subsection to be published in the *Gazette*.

27. (1) Where a notice under subsection (1) of section 26 has been served on a licensee, then, for so long as the prohibition imposed by the notice is not withdrawn under subsection (4) of that section, the amount of the royalty or other sum in respect of which the notice was served, and any interest due thereon, shall, to the extent that the same remains unpaid, constitute a charge on—

Charge on property of licensee in respect of unpaid royalties

- (a) any registered land belonging to the licensee, whether at the time the notice was first published in the *Gazette* or at any time thereafter; and
- (b) on any other property belonging to the licensee, whether at the time the notice was so published or at any time thereafter,

and shall be deemed, notwithstanding anything contained in any other law, to rank in priority to all other charges on such land or other property.

(2) Where a charge for the time subsists under subsection (1) on any registered land—

- (a) the Registrar of Lands shall direct the registration of the charge in the Land Register in such manner as he thinks fit; and
- (b) the provisions of sections 72, 73, 74, 75, 76, 78 and 80 of the Registered Land Ordinance shall apply as if the charge had been registered in the Land Register pursuant to the filing of an instrument in accordance with section 64 of that Ordinance.

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(3) No goods or chattels subject to a charge constituted under subsection (1) shall be liable to be taken by virtue of any execution or other process, warrant or authority, or by virtue of any assignment, on any account or pretence, unless the person at whose suit the execution or seizure is made, or to whom the assignment was made, pays or causes to be paid to the Treasurer, before the sale or removal of the goods or chattels, the full amount due under the charge.

(4) The Governor may authorise the Treasurer to distrain any goods and chattels subject to a charge constituted under subsection (1), notwithstanding the seizure or assignment of any such goods or chattels, and where any such goods or chattels have been distrained under this subsection, the Treasurer may proceed to the sale of those goods and chattels for the purpose of obtaining payment of the full amount due under the charge and of

the reasonable costs and charges of and incidental to such distress and sale; and the Treasurer shall, in the exercise of his authority under this subsection, be indemnified by this subsection.

Royalties to be paid into Consolidated Fund

28. All royalties and other sums payable under a licence under section 7 shall be paid to the Treasurer and shall be paid by him into the Consolidated Fund as monies received for the purpose of the Government of the Islands.

Power of Governor to direct that this Ordinance shall have retrospective effect

29. Where under any agreement completed before the commencement of this Ordinance any rights have been granted to any person to explore for or exploit any minerals for which a licence under section 7 would have been required had this Ordinance been in force at the date of the completion of the agreement, the Governor may, by order, direct that such agreement shall be deemed to be a licence granted under section 7 on the commencement of this Ordinance subject to such modifications as the Governor thinks fit; and in that event this Ordinance shall have effect in relation to that agreement, subject to such modifications (if any), in all respects as if it were a licence under that section.

**MINERALS (EXPLORATION AND EXPLOITATION)
(DESIGNATED AREA) ORDER – SECTION 4**

(Legal Notice 4 of 1990)

*MADE by the Governor in Executive Council under section 4(2) of the
Minerals (Exploration and Exploitation) Ordinance.*

[22 January 1990] Commencement

1. This Order may be cited as the Minerals (Exploration and Exploitation) (Designated Area) Order. Short title

2. In this Order, the Minerals (Exploration and Exploitation) Ordinance is referred to as “the Ordinance”. Interpretation

3. The area known as the Mouchoir Bank, the limits of which are set out in the Schedule, is designated as an area within which the rights mentioned in section 4(1) of the Ordinance are exercisable. Designated area Schedule

SCHEDULE

The area within the lines joining the following co-ordinates—

21 11' 00" N	71 01' 00" W
21 11' 00" N	70 22' 00" W
20 47' 00" N	70 22' 00" W
20 47' 00" N	71 01' 00" W

**PROCLAMATION OF MINERALS EXPLORATION AND
EXPLOITATION RIGHTS**

(Government Notice 11 of 1990)

I MICHAEL JOHN BRADLEY, QC Governor in and over the Turks and Caicos Islands, acting in pursuance of Instructions given by Her Majesty Queen Elizabeth II, through a Secretary of State, do hereby declare and proclaim that—

The rights to mineral and natural resources of the seabed and subsoil outside the Territorial Waters of the Turks and Caicos Islands are hereby vested in the Crown in right of the Government of the Turks and Caicos Islands.

Her Majesty will exercise the same jurisdiction in respect of the exploration and exploitation of mineral and natural resources of the seabed and subsoil

outside Territorial Waters as she does in respect of the exploration and exploitation of the mineral and natural resources of the seabed and subsoil beneath Territorial Waters subject to such provisions as may be made by law for the control and regulation of exploration and exploitation of mineral and natural resources outside Territorial Waters.

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