

PAPUA.



No. 10 of 1934.

AN ORDINANCE

To Regulate Mining for Petroleum.

[RESERVED 18TH JULY, 1934;
ASSENTED TO 27TH AUGUST, 1934.]^(a)

BE it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act*, 1905-1924, as follows:—

PART I—PRELIMINARY.

- 1.** This Ordinance may be cited as the *Petroleum* Short title.
(Mining) Ordinance, 1934.
- 2.** This Ordinance shall commence on a date to be Commence-
fixed by the Lieutenant-Governor by notice in the *Gazette*. ment.
- 3.** This Ordinance shall be incorporated and read as Incorporation.
one with *The Mining Act of 1898* (Queensland Adopted)
and other Ordinances relating to Mining.

(a) Assent notified in *Gazette* No. 11 of 5th September, 1934.

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Parts.

4. This Ordinance is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—ADMINISTRATION.

PART III.—PERMITS, LICENCES AND LEASES.

Division 1.—General.

Division 2.—Permits.

Division 3.—Licences.

Division 4.—Leases.

*Division 5.—Provisions applicable to Permits,
Licences and Leases.*

PART IV.—MISCELLANEOUS.

Repeal.

5. (1) The *Mineral Oil and Coal Ordinance, 1923-1929*, is repealed.

(2) Notwithstanding the repeal effected by this section, a licence granted under the *Mineral Oil and Coal Ordinance, 1923-1929*, shall continue in force for the period comprising the residue of the term for which it was granted and for a further term of fourteen days.

(3) An application for a licence, if made during the period referred to in the last preceding subsection, by a licensee under the *Mineral Oil and Coal Ordinance, 1923-1929*, shall entitle him to a licence in respect of land the subject of the licence under that Ordinance not exceeding in area that mentioned in Section Twenty-four of this Ordinance.

Definitions.

6. In this Ordinance, unless the contrary intention appears—

“Authorized officer” in relation to the doing of any act, the exercise of any power or function or the performance of any duty, means any officer thereto authorized in writing by the Lieutenant-Governor;

“Barrel,” when used quantitatively in relation to petroleum, means a barrel containing thirty-five imperial gallons.

“Crown land or Crown lands” shall include all lands vested in His Majesty which have not been dedicated to any public purpose and which have

not been granted in fee simple and all lands held under lease from His Majesty excepting lands held under any lease under this Ordinance and shall include all native lands ;

“Detailed survey” means a complete geological survey of an area and the construction of the necessary geological maps and sections in connection with the survey ;

“Drilling” includes boring ;

“Improved land” includes the site or curtilage of any building, or any garden, lawn, yard, nursery for trees, orchard, vineyard, cultivation field (not being mere pasture land), sports ground, recreation ground, rifle range, reservoir, natural or artificial storage or accumulation of water, spring, dam, bore, artesian well, cemetery, burial ground, or place of worship, or any land on which a railway, tramway, bridge or culvert is constructed ;

“Lease” means a lease granted under this Ordinance ;

“Lessee” means the holder of a lease ;

“Licence” means a licence granted under this Ordinance ;

“Licensee” means the holder of a licence ;

“Native lands” means lands which are owned and occupied by natives and have never vested in His Majesty ;

“Oilfield” means any area proclaimed as an oilfield under this Ordinance ;

“Payable,” as applied to petroleum, means petroleum of such quantity and quality that it can under ordinary circumstances be won with profit ;

“Permit” means a permit granted under this Ordinance ;

“Permittee” means the holder of a permit ;

“Petroleum” means naturally occurring hydrocarbons in a free state, whether gaseous, liquid or solid excepting coal and shale ; but does not

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- include any other product which may be extracted from coal, shale or other rock by the application of heat or by any chemical process ;
- “Petroleum Advisory Board” or “The Board” means the Petroleum Advisory Board constituted under this Ordinance ;
- “Petroleum deposits” means petroleum-producing or petroleum-bearing sands or strata ;
- “Private land” means land which has been alienated at any time whensoever from the Crown for an estate in fee simple but does not include a reserve ;
- “Qualified person” means—
- (a) a natural-born or naturalized British subject ; or
 - (b) an association of natural-born or naturalized British subjects ; or
 - (c) a company or corporation incorporated or registered under the law for the time being in force relating to companies in the Territory of which at least two-thirds of the shares issued by the company or corporation are held by natural-born or naturalized British subjects ;
- “Reconnaissance survey” means a geological survey for the purpose of determining the broad geological features of an area ;
- “Reserve” means any street or road or any lands which are for the time being set apart as a reserve for public purposes or are held by any person on trust for public purposes ;
- “Director of Mines” means the Director of Mines for the Territory ;
- “this Ordinance” includes the Regulations made thereunder.

Application of Ordinance.

7. Nothing in this Ordinance shall apply to mineral oil which may be extracted from coal, shale or other rock by any industrial process.

Appointment and constitution of Board.

8. (1) The Lieutenant-Governor may appoint a Board, to be called the Petroleum Advisory Board.

(2) The Board shall be constituted of three persons appointed by the Lieutenant-Governor by notice in the *Gazette*, one of whom the Lieutenant-Governor shall appoint to be Chairman of the Board.

(3) The Lieutenant-Governor may at any time remove any member of the Board and appoint some other person in his place, and, in the event of the absence or continued illness of any member, or inability to perform his duties, the Lieutenant-Governor may appoint a person to act as a substitute for that member during his absence, illness or inability.

(4) The Lieutenant-Governor may, by Proclamation in the *Gazette*, dissolve a Board appointed under this section, and the Board shall cease and determine accordingly.

9. (1) The Lieutenant-Governor may refer to the Board for advice on any question or matter relating to mining for petroleum or arising under this Ordinance. Powers and duties of Board.

(2) The Board shall inquire into and advise the Lieutenant-Governor upon any question or matter referred to it under the last preceding subsection.

(3) For the purpose of an inquiry under this section the Board, and each and every member thereof, shall have the same powers, authorities and protection as a member of a Commission appointed under the *Royal Commissions Act, 1902-1933* of the Commonwealth, in its application to the Territory.

PART II.—ADMINISTRATION.

10. Notwithstanding anything contained in any law of the Territory or in any grant, instrument of title or other document, all petroleum and helium on or below the surface of all land in the Territory shall be, and shall at all times be deemed to have been, the property of His Majesty. Petroleum and helium the property of His Majesty.

11. All grants, leases, licences and other instruments of tenure issued after the commencement of this Ordinance under any Ordinance relating to Crown land, other than licences and leases under this Ordinance, shall be deemed to contain— Reservations in Crown grants.

(a) a reservation of all petroleum on or below the surface of the land comprised therein, and also

a reservation of all rights of access necessary for the purpose of searching for and obtaining petroleum in any part of the land, and all rights of way for pipe lines and other purposes requisite for obtaining and conveying petroleum ; and

- (b) a reservation of all helium found in association with petroleum and of similar rights of access for the purpose of obtaining and conveying helium as by the last preceding paragraph are reserved in respect of petroleum.

Power to
Lieutenant-
Governor to
obtain
petroleum.

12. (1) Subject to this section and to the consent of the Minister, the Lieutenant-Governor may by his officers, agents and workmen, carry on the business of, and do all things necessary in and upon any land in the Territory for the purpose of searching for petroleum and helium.

(2) For the purpose of the last preceding subsection, the Lieutenant-Governor may enter upon and occupy—

- (a) any vacant Crown land ;
(b) any land the subject of a grant, lease, licence or other instrument of tenure, whether issued before or after the coming into operation of this Ordinance, in which petroleum has been or is deemed to be reserved or petroleum and helium have been or are deemed to be reserved ; or
(c) subject to payment of compensation as prescribed, any land not being land of the description mentioned in paragraphs (a) or (b) of this subsection.

(3) Nothing in this section shall authorize the Lieutenant-Governor to enter upon or occupy, for the purpose specified in Subsection (1) of this section, any land covered by a licence or comprised in a lease under this Ordinance.

Power to
resume land.

13. (1) The Lieutenant-Governor may, by Proclamation in the *Gazette*, acquire or resume any land which in his opinion should be acquired or resumed for the purposes of this Ordinance.

(2) An acquisition or resumption under the last preceding subsection shall not be made until the expiration

of one month after the date of publication in the *Gazette* of notice of the intention to acquire or resume.

(3) Compensation shall be paid by the Crown for any land acquired or resumed under this section, and the amount of compensation shall be determined as prescribed :

Provided that, in assessing such compensation, an allowance shall not be made for any petroleum or helium known or supposed to be in or upon the land resumed.

14. The Lieutenant-Governor may, by Proclamation in the *Gazette*—

- (a) constitute any lands to be an oilfield ;
- (b) alter or amend the boundaries of an oilfield ;
- (c) abolish an oilfield ; or
- (d) assign to the jurisdiction of any Warden's Court such oilfields or parts thereof as he thinks fit.

Power to proclaim oilfields and assign to Warden's Courts.

PART III.—PERMITS, LICENCES AND LEASES.

Division 1.—General.

15. Subject to this Ordinance, the Lieutenant-Governor may issue a permit or grant a licence or lease to any qualified person in respect of any land within the Territory, excepting such lands as are, at the time of the issue or grant, the subject of a licence or lease or of a preferent right to apply for a lease or reserved by a Proclamation under the next succeeding section.

Power to grant permits, licences or leases.

16. The Lieutenant-Governor may, by Proclamation in the *Gazette*, declare that any area or areas specified in the Proclamation shall be reserved from inclusion in any permit, licence or lease, and may, in the same manner, revoke any such Proclamation or modify or vary any area so specified.

Reservation of land from licences and leases.

17. (1) A person shall not be entitled to acquire or hold more than one licence at any one time.

Limitation of licences and leases.

(2) Except as otherwise provided in Sections Forty-four and Forty-seven of this Ordinance, a person shall not be entitled to acquire or hold more than one lease at any one time.

(3) A company or corporation which acquires or holds any shares or stock in another company or corporation

holding a licence or lease permitted under the last two preceding subsections or the leases permitted under Sections Forty-four and Forty-seven of this Ordinance shall not be entitled to hold any interest in any other licence or lease.

Division 2.—Permits.

Application
for a permit.

18. (1) Any qualified person may, in the manner and in the prescribed form, make an application to the Lieutenant-Governor for the issue of a permit.

(2) An application fee of One hundred and ten pounds shall accompany the application.

(3) A permit shall not be issued unless the Lieutenant-Governor is satisfied that the applicant is—

(a) a qualified person ; and

(b) of sufficient financial standing and otherwise suitable for the exercise of the rights conferred by the issue of a permit.

Rights under
permit.

19. The issue of a permit shall confer upon the permittee the right, but not the exclusive right, to prospect for petroleum in and upon the land referred to in the permit, other than any land specified in the Proclamation issued under Section Sixteen of this Ordinance or held under licence or lease.

Power to
revoke
permit.

20. The Lieutenant-Governor may revoke any permit if he is satisfied that—

(a) the permittee has failed to comply, or is not making reasonable efforts to comply, with the provisions of this Ordinance relating to the duties of the permittee ; or

(b) the work of reconnaissance survey referred to in the next succeeding section is not being performed by a person possessing adequate scientific knowledge.

Duties of
permittee.

21. Every permittee shall—

(a) within six months after the date of the issue to him of a permit, commence a reconnaissance survey of the land referred to in the permit ;

(b) at the end of three months from the commencement of the reconnaissance survey and at the end of every three months thereafter or at the

end of such other periods as the Lieutenant-Governor from time to time directs, forward to the Lieutenant-Governor :—

- (i) a report showing the nature of the work done in searching for petroleum ;
- (ii) a geological map of the country examined, drawn to a scale of not less than one in one hundred thousand or such other scale as may be prescribed ; and
- (iii) a copy of the entries of the work performed which he shall record daily in a book to be kept by him for the purpose.

22. Where a permittee produces evidence to the satisfaction of the Lieutenant-Governor that he has complied with the provisions of this Ordinance, in so far as they relate to permits and with the conditions of his permit, the Lieutenant-Governor may refund to the permittee such proportion of the application fee as he thinks fit but not exceeding in any case an amount of One hundred pounds.

Power to remit proportion of application fee.

Division 3.—Licences.

23. (1) Any qualified person may, in the manner and in the form prescribed make an application for a licence.

Who may apply for licences.

(2) Subject to Subsection (3) of Section Five of this Ordinance, a licence shall not be issued unless the Lieutenant-Governor is satisfied that the applicant is—

- (a) a qualified person who has complied with the conditions prescribed by Subsection (4) of Section Twenty-five of this Ordinance ; and
- (b) of sufficient financial standing and otherwise suitable for the exercise of the rights conferred by the issue of a licence.

24. The area which may be the subject of a licence shall, as far as practicable, be in the form of a square the sides of which shall respectively have a direction true North and South and East and West and shall not exceed one hundred square miles.

Area under licences.

25. (1) Every application for a licence shall comply with the following conditions :—

Applications for a licence.

- (a) When made by an individual person the applicant shall—

- (i) furnish particulars of his full name, address and occupation ;
 - (ii) state whether he is a natural-born or naturalized British subject ;
 - (iii) if a natural-born British subject, state the place and date of his birth ;
 - (iv) if a naturalized British subject, furnish a copy of his certificate of naturalization, attested as a true copy before a Justice of the Peace ; and
 - (v) furnish full details of the nature and extent of any right, title or interest which the applicant holds or which is held for him by any trustee (whether the applicant or trustee holds as a member of any company or corporation or in any other capacity) in any other licence or lease under this Ordinance or under any Ordinance repealed by this Ordinance.
- (b) When made by an association of persons each member of the association shall comply with the requirements of the last preceding paragraph.
- (c) When made by a company or corporation, there shall be furnished—
- (i) the name of the company or corporation and the address of its head office ;
 - (ii) the date of its incorporation or registration in the Territory ;
 - (iii) a list of its members, their addresses and occupations, together with a certificate by its managing director or manager stating which of the members are natural-born and which are naturalized British subjects ; and
 - (iv) full details of the nature and extent of any right, title or interest which the company or corporation holds, either directly or indirectly or as a member of any other company or corporation or otherwise, in any other licence or lease under this

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Ordinance or under any Ordinance repealed by this Ordinance.

(2) Every application shall be accompanied by a plan and description locating the land applied for and, if the land has already been surveyed, the plan and description shall accord with the survey.

(3) Lands which are not contiguous may be included in one application but a licence in respect of them may be refused by the Lieutenant-Governor where it appears to him that contiguous lands of a sufficient area and favourable geological structure are available to the applicant.

(4) Subject to Subsection (3) of Section Five of this Ordinance, a licence shall not be issued to a qualified person unless that person has held a permit under this Ordinance and has proved to the satisfaction of the Lieutenant-Governor that he has carried out an adequate examination of the area in respect of which he has applied for a licence. Applications for the same area by more than one qualified person, shall, after receipt of a report and recommendation by the Warden, be determined by the Lieutenant-Governor.

(5) An application for a licence shall be lodged in the office of the Warden of the oilfield in which the land the subject of the application is located.

(6) The applicant shall pay to the Warden when lodging the application—

(a) a sum equal to one penny for every acre of land applied for, which sum—

(i) if the licence is granted, shall be applied in and towards the first year's rent; or

(ii) if the licence is refused or granted in respect of an area less than that applied for, shall be returned to the applicant, either wholly or proportionately, as the case requires; and

(b) an application fee of Twenty pounds.

26. Before a licence is granted by the Lieutenant-Governor the applicant shall furnish a bond in the prescribed form with a corporate surety or such other surety as the Lieutenant-Governor approves, in such sum as the

Bond in
respect of
licence.

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Lieutenant-Governor determines, not being less than Five thousand pounds.

Application to be posted at Warden's office.

27. On receipt of an application for a licence, the Warden shall post and keep posted at his office a copy of the application for a period of not less than sixty days.

Objections.

28. (1) Within sixty days of the lodging of an application for a licence, any person may object to the application by lodging at the office of the Warden at which the application was lodged a written notice of his objection.

(2) With every objection there shall be lodged a fee of Ten pounds and there shall be deposited at the same time the sum of Fifty pounds as security for any costs which may be awarded by the Warden against the objector upon the hearing of the objection.

Hearing of objection.

29. (1) An objection to an application for a licence shall be heard by the Warden of the oilfield as soon as possible after the time for lodging objections has lapsed.

(2) Subject to the provisions of Subsection (1) of this section, where a notice of objection has been lodged under the last preceding section, the Warden shall appoint a time and place for the hearing of the application, and shall give not less than seven clear days' notice thereof to the applicant and to every objector.

(3) On the day appointed for the hearing of the objection, the Warden shall inquire into the objection and shall take such evidence on oath as is tendered by or on behalf of the applicant and the objector, and, where the applicant is a permittee, shall examine the documents and maps forwarded to the Lieutenant-Governor in accordance with Section Twenty-one of this Ordinance.

(4) The Warden may adjourn the hearing for any time or to any other place, on such conditions as to costs as he thinks fit.

(5) At the conclusion of the hearing the Warden shall announce in open court the purport of his report to the Lieutenant-Governor, and shall transmit to the Director of Mines—

(a) the application, any objections, and any other prescribed documents lodged ;

- (b) a copy of the evidence taken at the inquiry; and
- (c) his report on the application and objection.

(6) The Director of Mines, upon receipt of the documents mentioned in paragraphs (a), (b) and (c) of the last preceding subsection, shall submit them to the Lieutenant-Governor.

(7) Any person shall, upon application to the Director of Mines and payment of a fee of Ten pounds, be furnished with a copy of the evidence taken at the inquiry and of the Warden's report.

(8) Any inquiry under this section shall be conducted in open court, and the Warden shall have all the powers of a Warden's Court.

30. When an objection has not been lodged under Section Twenty-eight of this Ordinance, the Warden shall forward to the Director of Mines the application and other documents lodged with the application together with his report thereon, and the Director of Mines shall submit them to the Lieutenant-Governor. Report by Warden.

31. (1) On receipt of the application, documents, and report from the Director of Mines, the Lieutenant-Governor may, subject to this section, grant or refuse the application. Action by Lieutenant-Governor.

(2) In the event of an objection to an application being lodged or of more than one application being made for a licence in respect of the same land or any part thereof, the Lieutenant-Governor shall, unless he is of opinion that it is unfair to do so, give preference to the applicant or objector holding a permit whose prospecting work in the area applied for first proved the existence of a geological structure suitable for the retention of petroleum within the area.

(3) When dealing with the application the Lieutenant-Governor may require such geological or other information and reports concerning the land comprised in the application as he deems necessary and for that purpose may, at the expense of the applicant and of the Crown equally, obtain reports by geologists or other experts.

(4) The Lieutenant-Governor may, in his discretion, approve of the application for a licence either in its entirety or in part and on such terms and conditions as he thinks fit.

(5) Upon approval by the Lieutenant-Governor of the application, either in its original or amended form, the Lieutenant-Governor may grant a licence to the applicant.

(6) Notwithstanding the provisions of this section and notwithstanding that the applicant may or may not have in all respects complied with the provisions of this Ordinance, the granting of a licence shall be in the absolute discretion of the Lieutenant-Governor.

Form and
term of
licence.

32. Every licence shall—

- (a) be in accordance with the form prescribed with such variations as the Lieutenant-Governor in special cases requires; and
- (b) confer upon the licensee the exclusive right to carry out detailed geological surveys and supplementary operations upon and under the land covered thereby, for a period of two years or such extended period as is granted under the next succeeding section, provided that the licensee duly complies with this Ordinance and with the terms and conditions of the licence.

Extension of
licence.

33. (1) If for any good reason the licensee is unable with the exercise of reasonable diligence to test the land within two years, he may, before the expiration of the licence, apply for an extension of the licence for a further period not exceeding two years.

(2) The application for an extension of the licence shall be—

- (a) accompanied by satisfactory evidence on oath as to the causes that make the extension necessary and as to the efforts that have been made to comply with the conditions of the licence; and
- (b) addressed to the Lieutenant-Governor and lodged in the office of the Warden of the District in which the land covered by the licence is located.

(3) The Lieutenant-Governor may, if satisfied that good reasons have been shown for the extension of the licence, extend the licence for a period not exceeding two years, upon such terms and conditions as he thinks fit.

(4) The provisions of this Ordinance (other than this section) relating to licences shall apply to the licence as extended under this section, save and except such of them as have already been completely complied with by the licensee.

34. A licensee shall, for each year during the currency of his licence or any extension thereof, pay in advance rent for each acre covered by his licence, as follows:—

Rent in respect of licences.

In respect of the first year, one penny per acre per annum;

In respect of the second year, two pence per acre per annum;

In respect of each year during the period of any extension thereof, four pence per acre per annum:

Provided that where, at the expiration of the licence or of the extension thereof, the Lieutenant-Governor is satisfied that the licensee has expended in the aggregate an amount in excess of one penny per acre per annum in carrying out pit sinking and scout boring in accordance with paragraph (b) of Section Thirty-six of this Ordinance during the period of the licence or the extension, the Lieutenant-Governor may refund to the licensee such amount in excess of one penny per acre as was paid by him during the period of the licence or of the extension, as the case may be.

35. (1) Until a lease is granted to a licensee under this Ordinance, he shall pay to the Lieutenant-Governor a royalty calculated on such bases and at such rates as are respectively obtained by adding two and one-half to each of the percentages set out in Section Fifty-two of this Ordinance, and the royalty shall be paid at the times and in the manner specified in that section.

Royalty before lease granted.

(2) After the grant to the licensee of a lease of any part of the land covered by the licence, the provisions of the last preceding subsection shall apply to the residue of the land covered by the licence and not subject to a lease.

36. The licensee shall, during the currency of the licence—

Duties of licensee.

(a) cause a detailed survey of the land held under

the licence to be carried out by a competent geologist approved by the Lieutenant-Governor ;

- (b) carry out pit sinking and scout boring if, when and where directed by the Lieutenant-Governor ;
- (c) cause to be made, in the Territory or, with the approval of the Lieutenant-Governor, elsewhere mineralogical, palaeontological, and other scientific examinations of specimens obtained in the area under licence ;
- (d) furnish to the Lieutenant-Governor every three months or at such other intervals as are prescribed :—
 - (i) a detailed report of all work carried out on the land covered by the licence ; and
 - (ii) a geological map of the country examined drawn to a scale of not less than one in twenty thousand or such other scale as is prescribed.

Rights to water, etc.

37. A licensee may, subject to such conditions with respect to payment as are prescribed—

- (a) take and divert water from any natural spring, lake, pool or watercourse situated on or flowing through any land (including any private land or improved land) covered by the licence, and use such water for any purpose necessary or incidental to his prospecting and mining operations under the licence ;
- (b) cut and use the timber on the land for building or construction works or firewood or other necessary purpose ; and
- (c) depasture on the land all stock used in connection with his prospecting and mining operations under the licence.

Private lands, compensation before commencement of drilling.

38. (1) If the licensee determines to drill on any portion of private or improved land the subject of his licence he shall, before commencing to drill, apply to the nearest Warden's Court to determine the amount of compensation payable by the licensee in respect of the drilling

operations to be undertaken during the next ensuing year.

(2) At the end of one year from the commencement of the drilling the Warden shall determine what further compensation, if any, shall be paid in respect of the drilling operations already carried out and shall also determine the amount of compensation payable for the balance of the period of the licence.

(3) The licensee in his application to the Warden's Court shall—

- (a) describe the area of private or improved land required for his operations ;
 - (b) state the purpose for which the drilling is required ; and
 - (c) furnish such further information as the Warden's Court requires.
- (4) On receipt of the application the Warden shall—
- (a) cause to be served on or forwarded by registered post to the owner or occupier of the private or improved land a copy of the application ;
 - (b) if the land be vacant, cause a copy thereof to be fixed in a conspicuous position upon the land ; and
 - (c) insert in the copy so served or forwarded or fixed particulars as to the day and place upon and at which the application will be heard.

39. (1) If the Lieutenant-Governor is satisfied that a licensee has failed, or is not making reasonable endeavours, to comply with any provisions of this Ordinance or with any of the provisions or conditions of the licence, he may at any time during the currency of the licence order the Warden to call upon the licensee to show cause why his licence should not be cancelled. Cancellation
of licence.

(2) The Warden shall thereupon give at least thirty day's notice in writing to the licensee or his agent to appear before him and show cause why the licence should not be cancelled.

(3) The Warden shall inquire into the matter in open court, and forward the evidence and his report thereon to the Lieutenant-Governor, who may, if satisfied that it is just to do so, cancel the licence, and the decision of the

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Lieutenant-Governor in the matter shall be final and conclusive and without appeal.

Division 4.—Leases.

Who may apply for leases.

40. (1) Any qualified person, whether a licensee or not, may, in the manner and in the form prescribed, apply to the Lieutenant-Governor for a lease.

(2) The Lieutenant-Governor may refuse to grant any application for a lease unless he is satisfied that the applicant is—

(a) a qualified person ; and

(b) of sufficient financial standing and otherwise suitable for the exercise of the rights conferred by a lease.

Fee on application for lease.

41. Every applicant for a lease (other than a reward lease) shall lodge with his application a fee of Fifty pounds.

Applications for leases by persons not licensees.

42. (1) Applications by persons, other than licensees, shall be subject to the same conditions as those prescribed by the next succeeding section in respect of licensees :

Provided that the prescribed maximum area which is the subject of an application by any person other than a licensee shall not form part of any land which is the subject of a licence.

(2) Within sixty days of the lodging of an application for a lease by any person, other than a licensee, any person may object to the application by lodging at the office of the Warden at which the application was lodged a written notice of his objection.

(3) The provisions of Sections Twenty-eight and Twenty-nine of this Ordinance shall apply to any objection lodged under the last preceding subsection as fully and effectually as if the objection were an objection to an application for a licence.

Application by licensee for a lease.

43. (1) A licensee may, in the manner and in the form prescribed, apply to the Lieutenant-Governor for a lease of not more than five thousand acres of the land the subject of his licence.

(2) The area which is the subject of the application shall be compact in form and, as far as practicable, in the shape of a rectangle, the sides of which shall, respectively,

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have a direction true North and South and East and West, the length of the rectangle being not more than two and a-half times its breadth.

(3) Upon the grant by the Lieutenant-Governor of an application for a lease, a notice of the grant shall be published in the *Gazette* and the term of the lease shall commence to run from the date of the publication of the notice.

(4) If, at the time of the application, the area is not already surveyed, it shall, upon the grant of the application, be surveyed either by a surveyor employed by the licensee and approved by the Lieutenant-Governor, or by a surveyor nominated by the Lieutenant-Governor, at the expense of the licensee, and the area leased shall accord with the survey.

(5) Where, under the provisions of the last preceding subsection, the area is surveyed by a surveyor employed by the licensee, the field survey notes of the surveyor, or copies of them, certified by the surveyor, shall be lodged with the Lieutenant-Governor before the lease is issued.

(6) The licensee shall, upon the grant of the application, pay to the Lieutenant-Governor the prescribed survey fee, unless the licensee undertakes to have the land surveyed forthwith.

(7) If the licensee, after fourteen days' notice given to him by the Lieutenant-Governor, fails both to pay the survey fee prescribed and to undertake to have the land surveyed, the Lieutenant-Governor may revoke the grant of the application.

(8) Notwithstanding anything contained in this Ordinance lands which are not contiguous may be included in one lease where it appears to the Lieutenant-Governor that contiguous lands of sufficient area and favourable geological structures or conditions are not available.

44. Upon the grant, under the provisions of the last preceding section, of an application for a lease of a portion of any land which is the subject of a licence, the licensee shall, during the period of the licence or a period of twelve months from the commencement of the lease, whichever period last expires, be entitled to a preferent right to apply for a further lease of any portion being not more than five

Preferent
right to
further lease.

thousand acres of the residue of the land to which the licence refers and such residue may, subject to Section Forty-seven of this Ordinance, be disposed of by tender or auction in the prescribed manner.

Rights of approved applicant for lease.

45. When notice of the grant of an application for a lease has been published in the *Gazette*, the applicant may exercise all the rights of a lessee in respect of the land described in the notice and shall hold the land subject to this Ordinance and the covenants, conditions, and provisions of the lease to the same extent as if the lease had been actually issued :

Provided that the grant of any application in respect of land not already surveyed shall be deemed to be subject to the land being found, upon survey, to be available.

Grant of lease may be subject to conditions.

46. The Lieutenant-Governor may make the grant of any application for a lease subject to such conditions as are specified in the grant and not inconsistent with the provisions of this Ordinance, and a lease issued in pursuance of the grant shall contain the specified conditions in addition to the prescribed covenants and conditions.

Reward leases.

47. (1) If payable deposits of petroleum are discovered in or upon any land the subject of a licence and the licensee, within six months of the discovery, applies to the Lieutenant-Governor, he shall as of right be entitled to a grant by the Lieutenant-Governor of three reward leases, each of five thousand acres of the land the subject of the licence :

Provided that if the licensee is already the holder of a lease he shall be entitled to not more than two reward leases, each of the prescribed area.

(2) The provisions of Section Forty-three of this Ordinance shall, so far as they are applicable, apply to an application for reward leases, but the applicant for a reward lease shall also be required to satisfy the Lieutenant-Governor that payable deposits of petroleum have been discovered.

Payable petroleum.

48. (1) On the receipt of an application from a licensee for a reward lease, the Lieutenant-Governor may refer, to the Warden of the oilfield, the question whether

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the deposit of petroleum discovered on the land covered by the licence is payable or not.

(2) If the licensee is dissatisfied with the Warden's decision, he may, in the prescribed manner, appeal from the decision to the Lieutenant-Governor whose decision shall be final and conclusive and without appeal.

49. Every licensee or other person applying for a lease or renewal of a lease shall furnish, in the form and on the conditions prescribed and with such surety as the Lieutenant-Governor approves, a bond in such sum as the Lieutenant-Governor determines not being less than Ten thousand pounds. Bond in respect of lease.

50. Every lease shall—

- (a) be in accordance with the prescribed form, with such variations and additions as the Lieutenant-Governor in special cases specifies under Section Forty-six of this Ordinance;
- (b) confer upon the lessee the exclusive right to drill for, mine, extract, recover, remove and dispose of all petroleum in, under or upon the leased land, with the right to construct and maintain on the leased land all works, buildings, plants, waterways, roads, pipe lines, reservoirs, tanks, pumping stations, and other structures necessary to the full enjoyment of the lease.

Form of, and rights under, lease.

51. Notwithstanding anything contained in this Ordinance, if the Lieutenant-Governor is satisfied that payable deposits of petroleum have not been discovered in or upon the leased land within seven years from the grant of the lease, he may, by notice in the *Gazette*, declare the lease to be void, and thereupon all the right, title, estate, and interest in the lease of the lessee and of any person claiming under him shall cease and determine, and proof of the notice may be given in the manner prescribed by Subsection (2) of Section Sixty-one of this Ordinance. Power to cancel lease if oil not discovered.

52. (1) The lessee shall pay in advance a rental at the rate of one shilling and eight pence per acre per annum for and in respect of the leased land, and shall continue to make such payments annually during the term of his lease. Royalty and rent.

(2) Rent shall become due and payable as on and from

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the day upon which the term of the lease commences.

(3) Subject to the provisions of this section, the lessee shall pay, in addition to the prescribed rental, a royalty upon the gross value of the petroleum produced from the leased land :

Provided that petroleum used for production purposes or unavoidably lost on the leased land shall not be deemed to be produced within the meaning of this section.

(4) The royalty payable under the last preceding subsection shall be a sum equal to—

- (a) twelve and one-half per centum of the gross value of petroleum produced from petroleum deposits at a depth of two thousand feet or less ;
- (b) ten per centum of the gross value of petroleum produced from petroleum deposits at a depth of more than two thousand feet and less than four thousand feet ; and
- (c) seven and one-half per centum of the gross value of petroleum produced from petroleum deposits at a depth of four thousand feet and over :

Provided that in the case of petroleum produced by absorption or other process from natural gas, the royalty payable under paragraphs (a), (b), and (c) of this subsection shall be ten per centum, seven and one-half per centum and five per centum respectively of the gross value of petroleum so produced.

(5) Notwithstanding anything contained in this section, when the daily production of petroleum from all producing wells upon any lease—

- (a) does not exceed an average of two barrels for each producing well, a royalty shall not be payable by the lessee ;
- (b) exceeds an average of two barrels for each producing well, but does not exceed an average of ten barrels for each producing well, one-third of the royalty calculated in the manner prescribed by the last preceding subsection shall be payable by the lessee ;
- (c) exceeds an average of ten barrels for each producing well, but does not exceed an average

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of twenty barrels for each producing well, two-thirds of the royalty calculated in the manner prescribed by the last preceding subsection shall be payable by the lessee ;

- (d) exceeds an average of twenty barrels for each producing well, the full royalty calculated in the manner prescribed by the last preceding subsection shall be payable by the lessee.

(6) The royalty shall be payable monthly on the twenty-fifth day of each month following the month in which the petroleum is produced.

(7) All rents and royalties shall be paid to the Warden of the oilfield or to such person as the Lieutenant-Governor, by notice in the *Gazette*, appoints.

53. (1) The lessee shall, not later than the twenty-first day of each month in each year, furnish, as the basis for computing the royalty due, a statement in detail in the prescribed form to the Warden of the oilfield or to a person appointed under the last preceding section showing the amount, quantity and approximate value of all petroleum produced, all petroleum used for production, and all petroleum unavoidably lost on the leased land during the preceding month. Monthly statements.

(2) Any lessee who fails to furnish any return as prescribed by this section, or who furnishes a return which is false in any material particular, shall be guilty of an offence.

Penalty: Five hundred pounds.

54. All books and accounts of the lessee shall be open at all times for inspection by an authorized officer. Inspection books, etc.

55. (1) Within six months after the notice published in pursuance of Section Forty-three of this Ordinance of the grant of an application for a lease or such extended time not exceeding a further period of six months as the Lieutenant-Governor may in his absolute discretion allow, the lessee shall— Commencement of drilling.

- (a) proceed with reasonable diligence to install, if not already installed, on the land leased a standard or other sufficient outfit and equipment to the satisfaction of the Lieutenant-

Governor ;

- (b) commence to drill, by a method approved by the Lieutenant-Governor, at least one well ; and
- (c) continue to drill with reasonable diligence to production or to a depth at which the well is proved, to the satisfaction of the Lieutenant-Governor, to be unsuccessful.

(2) The lessee shall thereafter drill and continue with reasonable diligence to drill at least one well at a time to production or to a point at which the well is proved, to the satisfaction of the Lieutenant-Governor, to be unsuccessful until the lessee has drilled wells equal in number to the number of one hundred acre blocks comprised in the leased land, or such less number as the Lieutenant-Governor, in his absolute discretion, directs to be drilled :

Provided that the Lieutenant-Governor may, for the purposes of this subsection, accept as a well drilled in pursuance thereof any well drilled on the leased land in pursuance of a licence, and any well so accepted shall be deemed to be a well drilled in pursuance of this subsection.

(3) The lessee shall drill, in such manner as is approved by the Lieutenant-Governor, all necessary wells fairly to offset the wells drilled by others on petroleum deposits in or upon adjoining land.

Plans and reports.

56. The lessee shall furnish annually at such times as the Lieutenant-Governor requires in the manner and form prescribed—

- (a) a plan showing all development work and improvements on the leased land and other relevant information, with a report as to all buildings, structures and other works placed in or upon the leased land ;
- (b) a statement as to the amount and grade of petroleum produced and sold during the preceding twelve months, or such shorter period as the Lieutenant-Governor directs, and the moneys received for the petroleum so sold ;
- (c) if the lessee is a company or corporation, a report in such detail as the Lieutenant-Governor requires with regard to the members and debenture-holders or other mortgagees.

57. The lessee shall exercise reasonable diligence in drilling and operating wells for the petroleum on the leased land, and shall continue working so long as petroleum can be secured in payable quantities, unless consent to suspend operations temporarily is granted by the Lieutenant-Governor.

Diligence.

58. Any lessee using or occupying private or improved land under a lease shall—

Use and occupation of mining area on private or improved land.

- (a) as against the owner or occupier only of any of the land, but not otherwise, be and be deemed to be in occupation of only such area of the land as he from time to time requires for effectively carrying on and adequately protecting all the mining operations and the storing, refining, transporting and communication works in connection with the lessee's mining operations carried on or to be carried on from time to time or at any time during the term of the lease or any renewal of the term, together with all rights and easements incidental to that occupation ;
- (b) during that time have the right by himself, or by his agent or workmen—
 - (i) to take and divert water from any natural spring, lake, pool or watercourse situated on or flowing through the land, and to use the water for any purpose necessary or incidental to the mining operations and to the bona fide occupation of the land leased;
 - (ii) to cut and use any timber on the land for building purposes, construction works, fire-wood or other necessary purposes ; and
 - (iii) to depasture on the land all stock used in connection with the mining or other operations or used by workmen or employees of the lessee :

Provided that any right under this paragraph shall be subject to any conditions prescribed with respect to payment for water, timber, or agistment in cases where the making of the payment is, in the opinion of the Lieutenant-Governor, necessary ; and

- (c) cause to be surveyed and securely fenced each surface area on any part of the land which he requires in order effectively to carry on and adequately to protect his mining operations and works.

Surrender and determination of lease.

59. (1) The lessee may, with the consent in writing of the Lieutenant-Governor, surrender and terminate the lease upon payment of all rents, royalties and other debts and obligations due and owing to the Lieutenant-Governor, and upon payment of all wages and moneys due and payable to the workmen and employees of the lessee, and upon proof satisfactory to the Lieutenant-Governor that the public interest will not be impaired by the termination of the lease; but in no case shall any surrender be effective until the lessee has made such provision for conservation and protection of the property as the Lieutenant-Governor approves.

(2) The lessee shall, upon the acceptance by the Lieutenant-Governor of a surrender under the last preceding subsection, be relieved of all obligations under the lease.

Notice to be given before forfeiture of lease.

60. A lease shall not be forfeited for failure to comply with the provisions of this Ordinance or for default in the performance or observance of any term, covenant, condition or provision of the lease, unless the prescribed notice has been given to the lessee specifying the breach complained of and requiring the lessee to comply with the term, covenant, condition or provision within the time specified in the notice.

Forfeiture of lease.

61. (1) If a lessee fails to comply with the provisions of this Ordinance or makes default in the performance or observance of any term, covenant, condition, or provision of the lease, the Lieutenant-Governor may, subject to this Ordinance, declare the lease to be void, and upon publication in the *Gazette* of notice of the declaration, all the right, title, estate and interest in the lease of the lessee and any person claiming under him shall cease and determine without re-entry on the land leased.

(2) The production of the *Gazette* containing a notice under the last preceding subsection or under Section Fifty-one of this Ordinance shall be conclusive evidence in all

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courts that all the right, title, estate and interest in the lease of the lessee or any person claiming under him have been lawfully determined.

62. Every lease shall be for a term of twenty-one years and may at the option of the lessee, but subject to the provisions of the next succeeding section, be renewed for successive terms of twenty-one years. Term of lease.

63. (1) Not less than three months before the expiration of the lease or any renewal thereof, the lessee may, in the prescribed form, make application to the Lieutenant-Governor for the renewal of the lease or for a further renewal thereof. Renewal of lease.

(2) An application for renewal shall be accompanied by a fee of Fifty pounds.

(3) The rent and the royalties payable in respect of any renewed lease and the conditions and manner of payment shall be as prescribed by the law in force in the Territory at the time of the renewal.

(4) The Lieutenant-Governor may refuse to renew the lease unless he is satisfied that the applicant is—

- (a) a qualified person ; and
- (b) of sufficient financial standing and otherwise suitable for the exercise of the rights conferred by the renewal of the lease.

Division 5.—Provisions Relating to Permits, Licences and Leases.

64. (1) Every application for a permit, licence or lease made by an individual person or association of persons, shall be signed in person by him or by each of them or by his or their duly authorized agent, as the case may be. Signing of applications

(2) Every application for a permit, licence or lease by a company or corporation shall be made by a duly authorized attorney, under power of attorney in that behalf.

65. (1) No permit, licence or lease, or land covered or leased thereby, nor any interest in such permit, licence, lease or land, shall be directly or indirectly assigned, transferred, sublet or made the subject of any trust, without the consent in writing of the Lieutenant-Governor; No assignments without consent.

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and any such dealing with the permit, licence, lease or land made without that consent shall be void and of no effect.

(2) The Lieutenant-Governor may require such information concerning any proposed transfer, assignment or subletting as he considers necessary or advisable.

(3) The Lieutenant-Governor shall not be bound to consent to any such assignment, transfer or subletting.

Right of lessees to combine for certain purposes.

66. Nothing contained in this Ordinance shall be construed so as to prevent any number of lessees from combining their several interests, so far as is necessary, for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or a tramway to be operated and used by them jointly in the transportation of petroleum from their several wells or from the wells of other lessees.

Prohibition of combines, etc.

67. If any permit, licence or lease or any land covered or leased thereby—

- (a) is purported to be assigned, transferred, sublet or made the subject of a trust, without the consent in writing of the Lieutenant-Governor, or
- (b) is possessed or controlled in any manner whatsoever, so that, with the cognizance of the permittee, licensee or lessee, any such land is in any wise controlled by any combination, or is or forms part of the subject of any contract, agreement or understanding, written, oral or otherwise, in or for the purpose of the mining or disposal of petroleum with a view to control the price or prices of petroleum ; or
- (c) is held by any person in excess of the prescribed area,

the permit, licence or lease shall be forfeited to the Lieutenant-Governor in the manner prescribed.

Penalty for infringing rights of licensee or lessee.

68. Any person who searches or attempts to search for petroleum on land covered by any licence or lease, in contravention of the rights of the licensee or lessee, or who, without reasonable grounds (proof whereof shall lie upon him), hinders or interferes with any licensee or lessee in

the exercise of his rights under the licence or lease, shall be guilty of an offence.

Penalty: One hundred pounds.

69. (1) Every entry upon, occupation of or interference with any land the subject of any lease shall be deemed a trespass unless the entry, occupation or interference is authorized by the Lieutenant-Governor in pursuance of the powers conferred on him by this Ordinance: Trespass on leased land.

Provided that the owner or occupier of any private or improved land may continue in occupation, use and enjoyment of all the land, save and except such part of the land as is required by the lessee for mining purposes and construction work under this Ordinance.

(2) Every lessee may proceed in the Warden's Court for trespass under the last preceding subsection and for damages in respect of the trespass.

70. Notwithstanding the grant of a licence or a lease, the following rights are expressly reserved to the Crown and such reservation shall be deemed to be contained in every licence and lease:— Reservations in favour of Crown.

- (a) The right to grant, upon such terms as the Lieutenant-Governor thinks just, for joint or several use such easements or rights of way through, upon, over or in the land covered by the licence or comprised in the lease as are necessary to appropriate to the development or working of the land or of other lands containing petroleum deposits, and to the treatment and transportation of the products thereof by or under authority of the Lieutenant-Governor, his lessees or licensees, or for other public purposes; and the Lieutenant-Governor may from time to time make such grants accordingly;
- (b) The right to require the licensee or lessee, if he is the owner or operator of any pipe line, or is the owner of a controlling interest in any pipe line, or in any company or corporation operating any pipe line, which pipe line may be operated so as to convey the petroleum derived from the land covered by the licence or comprised in the lease as well as other petroleum,

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to accept and convey at reasonable rates and without discrimination the petroleum of the Crown or any person who is not the owner of any pipe line; and

- (c) The right to all helium found in association with petroleum.

Rights of way
and pipe line
easements.

71. (1) Rights of way over and through Crown land and private land for pipe line purposes for the transportation of petroleum may be granted by the Lieutenant-Governor to a licensee or lessee, to the extent of the ground occupied by the pipe line and a distance not exceeding twenty-five feet on either side of the pipe line, upon such conditions as to survey, rental, location, application, and use as are prescribed, and particularly upon the condition that all such pipe lines shall be constructed, operated and maintained as common carriers.

(2) Failure to comply with the provisions of this section or the conditions prescribed shall be a ground for forfeiting any such grant or easement.

Bond.

72. Every licensee and lessee shall furnish and maintain the prescribed bond or other approved security conditioned upon compliance with this Ordinance and the terms of the licence or lease as the case may be.

Logs of wells.

73. (1) Every licensee and lessee shall keep a log, in accordance with the prescribed form, of all wells drilled by him, showing the strata and character of the ground passed through by the drill, and shall upon demand furnish the log or a copy thereof to the Lieutenant-Governor.

(2) Adequate samples of all formations passed through shall be taken once at least in every ten feet and also at each noticeable change of formation.

(3) Every sample taken under the last preceding subsection shall be enclosed in a separate container accurately labelled and properly stored by the licensee or lessee who shall forward for scientific examination to the Lieutenant-Governor upon demand by him at least one-half of any sample or samples specified by the Lieutenant-Governor for scientific examination.

Restrictions
on location
of drills.

74. A licensee or lessee shall not commence drilling within seventy-five yards of any of the outer boundaries of

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the land the subject of the licence or the lease, as the case may be, unless the adjoining land is not the subject of any licence or lease under this Ordinance :

Provided that this restriction shall not apply to any bore which is being drilled at the time any licence or lease of the adjoining land is granted.

75. (1) Every licensee and lessee shall, to the satisfaction of the Lieutenant-Governor— Prevention of waste, etc.

- (a) carry on all his operations in a good and workmanlike manner in accordance with recognized and proper methods and practice ; and
- (b) take all reasonable precautions to prevent—
 - (i) waste of petroleum developed in the land ; and
 - (ii) the entrance of water through wells drilled by him to the petroleum deposits in or upon the land to the destruction or injury or probable destruction or injury of the petroleum deposits.

(2) Every licensee and lessee shall carry out at his own expense all requirements, directions and orders of the Lieutenant-Governor relative to the prevention of waste and the protection and preservation of the land held by him and the neighbouring property, and for the safety, protection, and welfare of workmen, and shall comply with such directions as are prescribed in that behalf.

76. Every licensee and every lessee, unless in any case wholly or partially excused from so doing by the Lieutenant-Governor, shall properly case each well with metal casing in accordance with the best approved methods, landing and effectually cementing one or more strings of the casing in clay or other water-impervious strata or formation between all water-bearing sands or strata and any underlying petroleum deposit, and generally shall take all such steps, to the satisfaction of the Lieutenant-Governor, as are reasonably necessary for effectually shutting off all water overlying and underlying the petroleum deposits, and for effectually preventing any water from penetrating the petroleum deposits. Casing well.

Abandonment of well.

77. Every licensee and lessee shall, before abandoning any well, withdraw the casing therefrom and shall while withdrawing the casing, effectually shut off and exclude all water underlying and overlying any petroleum deposits from penetrating those deposits, and shall, to the satisfaction of the Lieutenant-Governor, securely fill the well with clay, earth, or mortar or other good and efficient materials used alone or in suitable combination and thoroughly packed and tamped in the well to a point one hundred feet above the upper petroleum deposits.

Operations on private or improved land.

78. (1) If any of the land covered by a licence or comprised in a lease is private or improved land, operations under the licence or lease shall be conducted so as not to interfere with the existing use of the private or improved land to a greater extent than is necessary or is determined by the Lieutenant-Governor.

(2) Without derogating from any other provision of this Ordinance, the licensee or lessee shall compensate the owner or occupier (as the case may be) of private or improved land for all damage sustained by the owner or occupier to crops and improvements, including permanent artificial water supply, by reason of drilling, prospecting operations and construction works and for damage sustained by reason of the occupation of that portion of the land occupied by the licensee or lessee for mining and construction works during the period of the occupation.

(3) The licensee or lessee shall erect such dykes and embankments and take such precautions and measures as are necessary or required by the Lieutenant-Governor to impound any flow of refuse petroleum or salt water from wells drilled, to prevent any injury to lands capable of being irrigated or the water supply thereof, and shall promptly repair any damage resulting from improper methods of operation or from any of the causes mentioned in this subsection.

Compliance with Ordinance,

79. (1) Every licensee and lessee shall—

- (a) duly and punctually comply with this Ordinance and with the requirements, directions and orders of the Lieutenant-Governor given and issued under this Ordinance or under a licence or a lease, as the case may be; and

- (b) conduct all mining, drilling and relative productive operations, subject to the inspection of the Lieutenant-Governor or an authorized officer :

Provided that the licensee or lessee shall not be held responsible for delays occasioned by any cause beyond his control, proof whereof shall be upon the licensee or lessee, as the case may be.

(2) In the event of the failure or neglect of the licensee or lessee to carry out any of the provisions of this Ordinance or the requirements of the Lieutenant-Governor, the Lieutenant-Governor by his workmen and agents may enter on the land the subject of the licence or the lease and carry out any necessary operations at the licensee's or lessee's expense.

80. In the event of the cancellation of a licence or the forfeiture of a lease, the licensee or lessee shall deliver up the land and the improvements thereon in good order and condition.

Delivery of premises in case of cancellation or forfeiture.

81. (1) No grant, right, licence, permit, tenement, lease or other authority to search or mine for mineral oil which may be extracted from shale or other rock by an industrial process, shall be granted or allowed in respect of any part of the lands the subject of a licence or lease under this Ordinance.

Right to mine for other minerals.

(2) The Lieutenant-Governor may, on such terms and conditions as he considers reasonable, authorize mining for gold or other minerals on the land the subject of a licence or a lease.

82. During the currency of any licence or any lease a person shall not, except upon such conditions as are imposed by the Lieutenant-Governor or as are prescribed, drill for water in or upon any land the subject of a licence or a lease.

Drilling for water on lands under licence or lease.

83. Each of the rights and obligations under any permit, licence or lease shall enure to the benefit of, and be binding upon, the heirs, executors, administrators, successors, and permitted assigns of the permittee, licensee, or lessee, as the case may be.

Who bound by terms of permits licences and leases.

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Compensation.

84. Compensation payable under this Ordinance, whether by the Lieutenant-Governor or a permittee, licensee or lessee, shall not be payable where the operations of the Lieutenant-Governor, permittee, licensee or lessee do not comprise any portion of the surface of the land.

Power to agree as to compensation.

85. (1) The permittee, licensee or lessee may agree with the persons severally entitled to compensation as to the amount of such compensation.

(2) An agreement under the last preceding subsection shall not be valid unless it is in writing and signed by the parties thereto or their agents, and filed in the Warden's office.

(3) If, within such time as is prescribed, the parties are unable to agree upon the amount of compensation to be paid, then either party may, upon a plaint in that behalf, have the amount determined in the Warden's Court.

Measure of compensation.

86. (1) Except as otherwise provided by this Ordinance, the compensation to be made under this Ordinance shall be compensation for—

- (a) deprivation of the possession of the surface of the land or of any part thereof;
- (b) damage to the surface of the land or any part thereof, or to any improvements thereon, caused or likely to be caused by the carrying on of operations by the Lieutenant-Governor or the permittee, licensee or lessee in, under or upon the land;
- (c) severance of the land from other land of the owner or occupier;
- (d) surface rights of way; and
- (e) any consequential damage:

Provided that in determining the amount of compensation allowance shall not be made for any petroleum known or supposed to be in or under the land.

(2) In determining the amount of compensation, the Warden's Court shall take into consideration the amount of any compensation which the owner and occupier or either of them or their predecessors in title have or has already received for or in respect of the damage or loss for

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which compensation is being determined, and shall deduct the amount already so received from the amount which they or either of them would otherwise be entitled to for such damage.

87. If, after the Warden's Court has under the last preceding section determined the amount of compensation, it is proved to the Warden's Court that further loss or damage of the kind referred to in that section has been sustained, the Warden's Court may determine the loss or damage and order the further compensation to be paid by the permittee, licensee or lessee to the person entitled.

Additional compensation.

88. If compensation determined by the Warden's Court under this Ordinance is not paid within three months of the determination, the Lieutenant-Governor may, in the manner prescribed in Section Sixty-one of this Ordinance and with the same consequences as are provided in that section, declare the licence or lease to be void.

Penalty for non-payment of compensation.

89. Notwithstanding anything contained in this Ordinance the Lieutenant-Governor may approve of the union of two leases, whether the areas embraced in the leases are contiguous or are not contiguous, subject to the following conditions, namely :—

Union of leases.

- (a) An application for such union shall be made to the Lieutenant-Governor by means of a resolution passed by a majority in number and value of the interest (calculated as prescribed) of the persons registered for the time being as holders of the leases concerned; and
- (b) subject to this section or as is prescribed, all the provisions of this Ordinance governing leases and matters and things concerning leases shall apply and extend to any union of leases.

90. (1) The Lieutenant-Governor may in his discretion sanction any agreement made between the holders of licences or leases of land, situated in the same district, having for its object the making of provision for the drilling of a well or wells by the licensee or lessee on such land as is agreed upon and specified in the agreement.

Agreement to drill wells.

(2) An agreement under this section shall not have any force or effect unless and until approved by the Lieutenant-Governor.

PART IV.—MISCELLANEOUS.

All statements
to be verified.

91. All applications, statements, representations and reports made or required by the Lieutenant-Governor, under this Ordinance shall be verified upon oath or statutory declaration, and such verification shall be in such form as the Lieutenant-Governor requires or as is prescribed.

Control of
prospectus.

92. (1) In this section the term “prospectus” includes any prospectus, notice, circular, advertisement or other document or writing prepared with a view to induce, or that may have the effect of inducing, any person to advance money to or towards or to invest money in any project, business or enterprise for the grant or acquirement of a permit, licence or lease, or the commencement or carrying out of prospecting or mining operations in, under or upon any land the subject of a permit, licence or lease or a proposition for a permit, licence or lease.

(2) Every prospectus directly or indirectly issued or published by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation of a company, shall be dated and signed by every director of the company and every person who is named therein as a proposed director, and also by every promoter and vendor.

For the purposes of this subsection, the signature of a prospectus by the agent thereto authorized in writing of a director or a person who is named in the prospectus as a proposed director shall be deemed to be the signature by the director or person, as the case may be.

(3) A person shall not issue or publish any prospectus unless or until the following conditions have been complied with :—

- (a) Before being issued or published the prospectus shall be submitted to the Lieutenant-Governor for approval, and upon being so approved a copy shall be filed with the Director of Mines at Port Moresby ;
- (b) On being submitted to the Lieutenant-Governor the prospectus shall, if so required by the Lieutenant-Governor, be accompanied by the report of a geologist approved by the Lieutenant-Governor ;

- (c) The prospectus shall state the names, descriptions, and addresses of the directors or proposed directors and the minimum subscription upon which the directors may proceed to allotment, and the amount payable on application and allotment of each share ;
- (d) The prospectus shall state the number and amount of shares and debentures issued or agreed to be issued as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up (including any shares or debentures to be issued as a consideration to the permittee, licensee, lessee, promoter or vendor) and in every case the consideration for which these shares or debentures have been issued or are proposed or intended to be issued, and the Lieutenant-Governor may direct that such fully paid up or partly paid up shares shall not be offered for sale or transfer until the first bore on the area the subject of the permit, licence or lease is sunk and completed ;
- (e) The prospectus shall state the names and addresses of the vendors of any property purchased or acquired by the company or proposed to be so purchased or acquired, setting out in full the consideration for the purchase or proposed purchase, and distinguishing between cash shares and debentures ;
- (f) Money or consideration to be paid to the promoter shall be clearly and truly set out in the prospectus ;
- (g) The prospectus shall, if so directed by the Lieutenant-Governor, contain such statement relating to the area as the Lieutenant-Governor deems to be necessary ;
- (h) Without the express consent of the Lieutenant-Governor, the prospectus shall not contain any statement made in or any extract from any official document prepared by the authority of or furnished to the Lieutenant-Governor or Warden or other officer ;

Petroleum (Mining) Ordinance, 1934.

- (i) The prospectus shall not contain any statement to the effect that the prospectus or the proposals of the permittee, licensee or lessee or directors or promoters or any person proposing to apply for a permit, a licence or lease have received the approval or sanction of the Lieutenant-Governor; and
- (j) Such other conditions as the Lieutenant-Governor thinks proper.

(4) In the event of non-compliance with any of the requirements of this section, every person who is knowingly a party to the issue or publication of the prospectus shall be liable to a penalty not exceeding Ten pounds per day for every day from the date of the prospectus or the day on which the prospectus should have been dated until a copy thereof complying with the requirements of this section is filed with the Lieutenant-Governor.

(5) The Lieutenant-Governor may institute proceedings for the recovery of the penalty by complaint under the *Justices Ordinance, 1912-1920*, but this provision shall not be construed to prevent the exercise by the Lieutenant-Governor or any person aggrieved of any other remedy which he may have by way of forfeiture, injunction, mandamus, damages or otherwise.

Right of
pre-emption.

93. (1) The Lieutenant-Governor shall have the right of pre-emption of all petroleum produced by a licensee or lessee from any land held under a licence or a lease and of any product of that petroleum, and in the event of the exercise of this power the licensee or lessee shall do all things reasonable to facilitate the delivery of the petroleum or product in accordance with the directions of the Lieutenant-Governor.

(2) The price to be paid for the petroleum or product shall, if the price is not agreed upon between the parties, be settled by arbitration in the prescribed manner.

Secrecy to
be observed
by officers.

94. (1) Any person who acts in the execution of any duty under this Ordinance who makes a record of or divulges any information supplied to the Lieutenant-Governor in pursuance of this Ordinance, except in the performance of his duty thereunder, shall be guilty of an offence.

Penalty: Two hundred and fifty pounds.

(2) Any person who has been an officer or has performed any duty under this Ordinance who communicates any information acquired by him in the performance of any duty under this Ordinance, to any person other than a person to whom he is authorized by the Lieutenant-Governor to communicate it, shall be guilty of an offence.

Penalty: Two hundred and fifty pounds.

95. Any offence against, or contravention of, any provision of this Ordinance shall, where no other pecuniary penalty is provided, be punishable on summary conviction by a penalty not exceeding One hundred pounds. Penalty.

96. Nothing in this Ordinance shall take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by him by reason of any mining operations carried on pursuant to *The Mining Act of 1898* (Queensland Adopted) and other Ordinances relating to mining in force at the commencement of this Ordinance, upon private land, other than for loss or damage for which compensation is payable under this Ordinance. Other rights of action not affected.

97. The Lieutenant-Governor may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular for prescribing penalties not exceeding One hundred pounds for offences against the regulations. Regulations.

Passed in Council this eighteenth day of July, in the year of Our Lord One thousand nine hundred and thirty-four.

Assented to by His Excellency the Governor-General, with the advice of the Executive Council of the Commonwealth of Australia, on the twenty-seventh day of August, One thousand nine hundred and thirty-four.

