

PAPUA.



No. 13 of 1938.

AN ORDINANCE

To Regulate Prospecting and Mining for Petroleum.

[RESERVED 8TH SEPTEMBER, 1938;
ASSENTED TO 14TH SEPTEMBER, 1938.]^(a)

BE it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act, 1905-1934*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Petroleum (Prospecting and Mining) Ordinance, 1938*. short title.
2. This Ordinance shall commence on a date to be fixed by the Lieutenant-Governor by notice in the *Gazette*. Commencement.
3. This Ordinance shall be incorporated and read as one with the *Mining Ordinance, 1937*. Incorporation.
4. This Ordinance is divided into Parts, as follows:— Parts.

PART I.—PRELIMINARY.

(a) Assent notified in *Gazette* No. 14 of 23rd September, 1938.

PART II.—ADMINISTRATION.

PART III.—PERMITS, LICENCES AND LEASES.

Division 1.—Preliminary.

Division 2.—Permits.

Division 3.—Licences

Division 4.—Leases.

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

Division 6.—Compensation.

PART IV.—MISCELLANEOUS.

Repeal.

5. (1) The *Petroleum (Mining) Ordinance, 1934*, the *Petroleum (Mining) Ordinance, 1936*, and the *Petroleum (Mining) Ordinance, 1937*, are repealed.

(2) Notwithstanding the repeal of the Ordinances referred to in the last preceding subsection, any permit issued under any of those Ordinances and in force at the date of commencement of this Ordinance shall, subject to the next succeeding subsection, continue in force as if issued under this Ordinance.

(3) Where the land comprised in any such permit exceeds ten thousand square miles the permittee shall, as and when so required by the Lieutenant-Governor by notice in writing, surrender so much of the land comprised in the permit as the Lieutenant-Governor directs :

Provided that the Lieutenant-Governor shall not require the land comprised in the permit to be reduced to less than ten thousand square miles.

(4) A surrender of land under the last preceding subsection shall be effected by lodging with the Lieutenant-Governor a plan and description of the land surrendered.

(5) If any permittee fails to surrender any land which he is required by this section to surrender, the Lieutenant-Governor may forthwith cancel his permit.

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 ;

“Casinghead petroleum spirit” means any liquid hydrocarbons obtained from natural gas by any chemical or physical process ;

“Crown land” includes—

(a) all land vested in His Majesty which has not been dedicated to any public purpose and has not been granted in fee simple or lawfully contracted to be so granted ;

- (b) all land held under lease from His Majesty other than land held under lease granted under this Ordinance ;
and
 - (c) all native land ;
- “Crude oil” means petroleum oil in its natural state before it has been refined or otherwise treated but from which water and foreign substances have been extracted ;
- “Detailed survey” means a complete geological survey of an area to determine geological structure and includes—
- (a) the construction of the necessary contoured topographical, structural and geological maps and sections in connection therewith ;
 - (b) the collection of necessary specimens of rock, fossils and other materials and the laboratory examination thereof ; and
 - (c) where necessary a geophysical survey, scout drilling and pit sinking ;
- “Drilling” means the perforation of the earth’s surface crust by mechanical means not involving the descent of workmen into the hole caused by the perforation and whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled by extraneous materials, including water ;
- “Geologist” means a person trained in the science of geology and approved by the Minister in writing as a person qualified to carry out geological surveys for the purposes of this Ordinance ;
- “Improved land” includes—
- (a) the site or curtilage of any building ;
 - (b) 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 ; and
 - (c) 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 the lease ;
- “Licence” means a licence granted under this Ordinance ;
- “Licensee” means the holder of a licence ;
- “Lieutenant-Governor” means the Lieutenant-Governor of the Territory of Papua ;
- “Mining operations” includes drilling for, mining, extracting, recovering, removing, storing, refining, improving, processing and disposing of petroleum ;

- “Minister” means the Commonwealth Minister of State charged with Papuan affairs ;
- “Native land” means land which is owned or occupied by natives and has never vested in His Majesty ;
- “Natural gas” means gas obtained from a well and consisting primarily of hydrocarbons ;
- “Permit” means a permit issued or continued in force under this Ordinance ;
- “Permittee” means the holder of a permit ;
- “Petroleum” means naturally occurring hydrocarbons in a free state, whether gaseous, liquid or solid, but does not include coal, shale or any substance which may be extracted from coal, shale or other rock by the application of heat or by a chemical process ;
- “Private land” means land which has been alienated at any time whatsoever from the Crown for an estate in fee simple, or which is lawfully contracted to be so alienated, and includes land held under any Ordinance relating to Crown land in which an estate in fee simple may be acquired by the occupier or by any other person immediately or at a future time with or without performance of any conditions, but does not include a reserve ;
- “Reconnaissance survey” means a rapid preliminary examination of an area in less detail than is required for a detailed survey ;
- “The Oil Advisory Committee” means the Oil Advisory Committee referred to in Section Seven of this Ordinance ;
- “The Petroleum Advisory Board” means the Petroleum Advisory Board referred to in Section Eight of this Ordinance ;
- “To prospect” includes—
- (a) to make a reconnaissance survey or a detailed survey ; and
 - (b) to test a geological structure for petroleum by the drilling of boreholes ;
- “Well” includes borehole.

Oil Advisory
Committee.

7. (1) For the purposes of this Ordinance, there shall be an Oil Advisory Committee which shall consist of not more than three persons appointed by the Minister from among persons trained in the science of geology and employed under the *Petroleum Oil Search Acts, 1936.*

(2) The members of the Committee shall hold office during the pleasure of the Minister.

(3) The Committee shall advise the Minister or the Lieutenant-Governor upon any scientific or technical question arising under this Ordinance and referred to the Committee by the Minister or Lieutenant-Governor.

Petroleum (Prospecting and Mining) Ordinance, 1938.

8. (1) For the purpose of this Ordinance, there shall be a Petroleum Advisory Board. Petroleum Advisory Board which shall consist 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.

(2) The members of the Board shall hold office during the pleasure of the Lieutenant-Governor.

(3) In the event of the absence or illness of any member of the Board or the inability of any member of the Board 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 notice in the *Gazette*, dissolve the Petroleum Advisory Board and the Board shall cease and determine accordingly.

9. (1) The Lieutenant-Governor may refer to the Petroleum Advisory Board for advice any question or matter relating to the administration of this Ordinance. Powers and duties of Advisory Board.

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

(3) For the purposes 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 Ordinance of 1906*.

PART II.—ADMINISTRATION.

10. Subject to this Ordinance, but notwithstanding anything contained in any other law of the Territory or in any grant, instrument of title or other document, all petroleum and helium at or below the surface of any land in the Territory shall be, and shall be deemed at all times 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 or granted before or after the commencement of this Ordinance under any Ordinance relating to Crown land, other than licences and leases issued or granted under this Ordinance, shall be deemed to contain— Reservation 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 necessary for the purpose of searching for and obtaining petroleum in any part of the land and all rights of way and easements for pipe lines and for other purposes required for obtaining or conveying petroleum; and

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

12. (1) The Lieutenant-Governor may, with the consent of the Minister, and on behalf of the Crown— Lieutenant-Governor may carry on mining operations.

- (a) carry on prospecting, drilling and mining operations for petroleum or helium; and
- (b) carry on the business of acquiring, improving, disposing of and dealing in petroleum or helium produced in the Territory and any products thereof.

(2) Where the Lieutenant-Governor carries on any operations under this section, he shall have the same rights, benefits and privileges, and be subject to the same duties and obligations as a permittee, licensee or lessee, as the case may be.

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 after the expiration of one month from 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.

(4) In assessing the amount of compensation, an allowance shall not be made for any petroleum or helium known or supposed to be in or upon the land acquired or resumed.

Power to assign areas to Warden's Court.

14. The Lieutenant-Governor may, by Proclamation in the *Gazette*, assign to the jurisdiction of any Warden's Court such areas as he thinks fit and appoint officers to be Wardens of those areas.

PART III.—PERMITS, LICENCES AND LEASES.

Division 1.—Preliminary.

Issue of permits, licences and leases.

15. (1) Subject to this Ordinance, a permit may be issued or a licence or lease may be granted to—

- (i) a natural-born or naturalized British subject;
- (ii) an association of natural-born or naturalized British subjects; or
- (iii) a company or corporation incorporated or registered under the law for the time being in force relating to Companies in the Territory,

in respect of any land within the Territory, excepting such land as is, at the time of the issue or grant—

- (a) included in a permit, licence or lease respectively; or
- (b) reserved by a Proclamation under the next succeeding section.

(2) A notification of the issue of a permit or the grant of a licence or lease shall be published in the *Gazette*.

Reservation of lands from permits, licences and leases.

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

17. (1) Where—

- (a) a licensee or lessee applies for the issue of a permit; or
- (b) a permittee, licensee or lessee applies for the issue or grant of a further permit, licence or lease, respectively, in respect of such an area of land that, if the application were granted—
 - (i) the area of land held by the permittee under the permits would exceed ten thousand square miles;
 - (ii) the area of land held by the licensee under the licences would exceed two thousand five hundred square miles; or
 - (iii) the area of land held by the lessee under the leases would exceed five hundred square miles,

Limitation of permits, licences and leases.

the Lieutenant-Governor shall not issue or grant the permit, licence or lease unless the Governor-General, after the Minister has obtained a report from the Lieutenant-Governor and from the Oil Advisory Committee, authorizes him to do so.

(2) Particulars of all permits, licences or leases issued or granted in pursuance of the authority of the Governor-General under this section, together with the reasons for the issue or grant thereof, shall be laid before each House of the Parliament of the Commonwealth of Australia within thirty sitting days of that House after the issue or grant of the permit, licence or lease.

(3) If any company or corporation which holds a permit, licence or lease under this Ordinance, acquires or holds either directly or indirectly, without the consent in writing of the Minister any shares or stock in another company or corporation holding a permit, licence or lease, the Lieutenant-Governor may cancel the permit, licence or lease.

18. A permittee or licensee who has complied with the terms and conditions of his permit or licence and with such of the provisions of this Ordinance and of the regulations as are applicable to him shall, subject to this Ordinance, have the right (in this Ordinance referred to as a "preferential right") to a licence or lease respectively, in preference to other persons, of any land included in the permit or licence.

Preferential rights.

Division 2.—Permits.

19. (1) Any person may, in the manner and form prescribed, apply to the Lieutenant-Governor for the issue of a permit.

Application for permit.

(2) A person (not being a permittee, licensee or lessee) shall not apply for more than one permit.

(3) Every application shall be accompanied by a fee of One hundred pounds.

(4) The Lieutenant-Governor shall not issue a permit unless he is satisfied that the applicant is of sufficient financial standing and otherwise fitted for the exercise of the rights and the performance of the obligations arising out of the issue of a permit.

(5) In the event of the land, or any part thereof, in respect of which an application for a permit is made being included in any other application for a permit, the Lieutenant-Governor shall decide to which applicant the permit shall be issued.

(6) A notification of each application for a permit shall be published in the *Gazette* and a copy of the application shall be posted and kept posted at the office of the Warden within whose jurisdiction the land in respect of which the application is made is situated, and at the office of the Department of the Commissioner for Lands, Port Moresby, for a period of not less than thirty days.

(7) Where an application for the issue of a permit is refused, the fee paid in respect of the application shall be refunded to the applicant.

Issue of permits.

20. (1) Subject to this Ordinance, the Lieutenant-Governor in Council may, after obtaining a report from the Petroleum Advisory Board, and with the approval of the Minister, issue a permit to the applicant.

(2) A permit issued under this section shall—

(a) be in respect of one, two or three areas, not exceeding in the aggregate ten thousand square miles, and subject to such terms and conditions as the Lieutenant-Governor in Council, with the approval of the Minister, determines ;

(b) be for a term not exceeding twelve months ; and

(c) confer on the permittee the exclusive right to prospect for petroleum in and on the land specified in the permit.

(3) The Lieutenant-Governor in Council may, after obtaining a report from the Petroleum Advisory Board, and with the approval of the Minister, and upon payment of the prescribed fee, from time to time, extend the term of a permit with respect to the whole or portion of the land comprised therein for a period not exceeding twelve months :

Provided that where a permittee is granted a licence the term of the permit for the balance of the area comprised in the permit may be extended for not more than three periods of twelve months each :

Provided further that the total term of any permit shall not exceed ten years.

Power to cancel permit.

21. The Lieutenant-Governor may cancel any permit if he is satisfied that the permittee has failed to comply, or is not making reasonable efforts to comply, with the terms and conditions of the permit or with such of the provisions of this Ordinance and of the regulations as are applicable to him.

Duties of permittee.

22. (1) Every permittee shall—

(a) within six months after the date of the issue to him of a permit, cause a reconnaissance survey of the land comprised in the permit to be commenced by a geologist ; and

(b) after the expiration of three months from the commencement of the reconnaissance survey, and after the expiration of each three months thereafter, or after the expiration of such other periods as the Lieutenant-Governor from time to time directs, furnish to the Lieutenant-Governor—

(i) a report showing the nature of the work done in prospecting for petroleum ; and

- (ii) a geological reconnaissance map of the land surveyed, drawn to a scale of not less than one in one hundred thousand or to such other scale as is prescribed.

(2) A permittee shall not be entitled to dispose of any petroleum obtained from any land included in a permit until a lease of the land from which the petroleum was obtained has been granted to him.

Division 3.—Licences.

23. (1) Any permittee may, in the manner and form prescribed, Application for licence. apply to the Lieutenant-Governor for the issue of a licence.

(2) The application shall be accompanied by—

(a) a fee of Twenty pounds ;

(b) a further fee of Twenty-five pounds, which—

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

(ii) if the licence is not granted—shall be refunded to the applicant ; and

(c) two copies of a plan and description of the land comprised in the licence applied for, which plan and description shall be in accordance with a survey made by a surveyor approved by the Lieutenant-Governor.

(3) Every application shall include a statement setting out—

(a) in the case of an application made by an individual—

(i) his full name address and occupation ; and

(ii) full particulars of the nature and extent of any right, title or interest which the applicant holds, or which any trustee holds for him (whether the applicant or trustee holds as a member of any body corporate or in any other capacity) in any licence or lease ;

(b) in the case of an application made by a body corporate—

(i) the name of the body corporate and the address of its head office ;

(ii) the date of its incorporation or registration in the Territory ;

(iii) a list of its shareholders or members, together with their addresses and occupations ; and

(iv) full particulars of the nature and extent of any right, title or interest which the applicant holds or which is held for it (whether the applicant or trustee holds as a member of any body corporate or in any other capacity) in any licence or lease ; and

(c) in the case of an application made by an association of persons, of bodies corporate, or of persons and bodies corporate, the particulars specified in paragraph (a) or paragraph (b) of this subsection, as the case may be, in respect of each of the applicants.

(4) An application for a licence may be lodged at the office of the Warden within whose jurisdiction the land in respect of which the

application is made is situated, or at the office of the Department of the Commissioner for Lands, Port Moresby.

Licences to be granted to permittees only.

- 24.** A licence shall not be granted—
- (a) except to a permittee; and
 - (b) unless the Lieutenant-Governor is satisfied—
 - (i) that the applicant has complied with the terms and conditions of his permit and with such of the provisions of this Ordinance and of the regulations as are applicable to him; and
 - (ii) that the applicant is of sufficient financial standing and otherwise fitted for the exercise of the rights and the performance of the obligations arising out of the grant of the licence.

Applicant to furnish bond.

- 25.** Before a licence is granted, the applicant shall furnish a bond—
- (a) in accordance with a form approved by the Lieutenant-Governor;
 - (b) in such sum (not being less than Five thousand pounds) as the Lieutenant-Governor requires; and
 - (c) with such surety as the Lieutenant-Governor approves, for compliance with the terms and conditions of the licence and with such of the provisions of this Ordinance and of the regulations as are applicable to him.

Issue of licences.

- 26.** (1) Subject to this Ordinance, the Lieutenant-Governor shall grant a licence in respect of the land applied for.
- (2) The land in respect of which a licence is granted shall—
- (a) be land included in the applicant's permit;
 - (b) not exceed two thousand five hundred square miles but may consist of one or more areas:
Provided that where more than one area is granted each area shall not be less than one-fifth of the total area granted;
 - (c) not completely surround any land not included in the licence.
- (3) Each such area shall be—
- (a) compact and limited by well marked permanent physical boundaries; or
 - (b) substantially in the form of rectangles, the length of each of which shall not, except with the approval of the Lieutenant-Governor, exceed five times the average width.
- (4) A licence shall—
- (a) be in accordance with the prescribed form;
 - (b) be subject to the prescribed terms and conditions; and
 - (c) subject to the next succeeding section, be for a period of two years.

Extension of licences.

- 27.** (1) The Lieutenant-Governor may, from time to time, on the application of the licensee, if he is satisfied that the licensee has

complied with the terms and conditions of his licence and with such of the provisions of this Ordinance and of the regulations as are applicable to him, extend the term of the licence for a period not exceeding twelve months but so that the total term of the licence shall not exceed six years.

(2) An application for an extension of the term of a licence shall—

- (a) be made in the manner and form prescribed;
- (b) be accompanied by the prescribed extension fee;
- (c) be made before the expiration of the term of the licence;
- (d) be addressed to the Lieutenant-Governor and be lodged in the office of the Warden within whose jurisdiction the land comprised in the licence is situated or at the office of the Department of the Commissioner for Lands, Port Moresby.

28. (1) A licensee may, in the manner and form prescribed, apply to the Lieutenant-Governor for the inclusion of a further area of land in his licence, but so that, if the application is granted, the total area of land comprised in the licence will not exceed Two thousand five hundred square miles. Inclusion of further land in licence.

(2) The application shall be accompanied by two copies of a plan and description of the further land applied for, which plan and description shall be in accordance with a survey made by a surveyor approved by the Lieutenant-Governor.

(3) The provisions of Subsections (2) and (3) of Section twenty-six of this Ordinance shall apply in relation to any land included in a licence under this section.

29. A licence shall confer upon the licensee the exclusive right to carry out upon and under the land comprised in the licence detailed surveys and such other operations as are necessary to test the land for petroleum. Rights of licensee.

30. A licensee shall pay, in advance, rent as follows:—

- In respect of the first year—One shilling per square mile.
- In respect of the second year—Two shillings per square mile.
- In respect of the third year—Three shillings per square mile.
- In respect of the fourth year—Four shillings per square mile.
- In respect of the fifth year—Five shillings per square mile.
- In respect of the sixth year—Ten shillings per square mile.

Rent payable by licensee.

31. (1) A licensee shall, during the currency of the licence—

- (a) cause a detailed survey of the land comprised in the licence to be carried out by, or under the direction of, a geologist, to the satisfaction of the Lieutenant-Governor;
- (b) cause to be made mineralogical, palaeontological and other scientific examinations of specimens obtained from the land comprised in the licence;
- (c) if required by the Lieutenant-Governor, retain representative specimens of the specimens so obtained and make them available to the Lieutenant-Governor; and

Duties of licensee.

(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 comprised in the licence; and
- (ii) a geological map of the land examined drawn to a scale of not less than one in twenty thousand or to such other scale as is prescribed.

(2) In the event of the discovery of petroleum in any borehole on any land included in a licence, the licensee shall immediately furnish to the Lieutenant-Governor a report accordingly, and shall, if so required by the Lieutenant-Governor, carry out such operations as are practicable for the purpose of proving the quantity and quality of the supply of petroleum.

(3) A licensee shall not be entitled to dispose of any petroleum obtained from any land included in a licence until a lease of the land from which the petroleum was obtained has been granted to him.

Surrender of licences.

32. (1) At any time after the expiration of twelve months from the commencement of the term of a licence, the licensee may, upon giving two months' notice in writing to the Lieutenant-Governor, surrender his licence with respect to the whole or part of the land comprised therein.

(2) Where a licence is surrendered the Lieutenant-Governor may, in his absolute discretion, and subject to this Ordinance—

- (a) if the licence is surrendered with respect to the whole of the land comprised therein, grant to the licensee a licence in respect of other land included in his permit; or
- (b) if the licence is surrendered with respect to part of the land comprised therein, include in the licence land included in his permit in substitution for the land with respect to which the surrender is made.

Cancellation of licences.

33. (1) Where at any time during the term of a licence the Lieutenant-Governor has reason to believe that the licensee has failed, or is not making reasonable efforts, to comply with any of the terms and conditions of the licence or with any of the provisions of this Ordinance or of the regulations which are applicable to him, the Lieutenant-Governor may obtain a report from the Oil Advisory Committee or the Petroleum Advisory Board.

(2) If, after obtaining a report accordingly, the Lieutenant-Governor is satisfied that there has been default by the licensee, he may give the licensee notice in writing specifying the default and requiring him to remedy it within a period of sixty days from the giving of the notice.

(3) If the licensee fails to remedy the default the Lieutenant-Governor may give him not less than fourteen days' notice requiring him to appear before the Warden at a time and place specified in the notice to show cause why his licence should not be cancelled.

(4) 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 he is satisfied that it is just to do so, cancel the licence and upon publication in the *Gazette* of notice of the cancellation, the right, title, estate or interest in the licence of the licensee and of any person claiming under him shall cease and determine.

(5) Production of the *Gazette* containing a notice under the last preceding subsection shall be conclusive evidence in any Court that the right, title, estate or interest in the licence of the licensee and of any person claiming under him have been lawfully determined.

(6) A notice under this section shall be given by posting the notice to the licensee's last known address in the Territory, and, where the licensee is a body corporate whose head office is situated outside the Territory, a copy of the notice shall be posted to that head office. The notice shall, for the purposes of this section, be deemed to have been given at the time when it would be delivered in the ordinary course of post to the licensee's address in the Territory.

Division 4.—Leases.

34. (1) Any licensee may, in the manner and form prescribed, ^{Application for lease.} apply to the Lieutenant-Governor for the grant of a lease.

(2) The application shall be accompanied by two copies of a plan and description of the land applied for, which plan and description shall be in accordance with a survey made by a surveyor approved by the Lieutenant-Governor.

(3) If the applicant desires to obtain two or more separate areas of land under lease, a separate application shall be made in respect of each area.

35. Before a lease is granted or renewed, the applicant shall ^{Applicant to furnish bond.} furnish a bond—

- (a) in accordance with a form approved by the Lieutenant-Governor;
- (b) in such sum (not being less than Ten thousand pounds) as the Lieutenant-Governor requires; and
- (c) with such surety as the Lieutenant-Governor approves, for compliance with the terms and conditions of the lease and with such of the provisions of this Ordinance and of the regulations as are applicable to him.

36. (1) Subject to this Ordinance, the Lieutenant-Governor shall ^{Grant of leases.} grant a lease in respect of the land applied for.

(2) The Lieutenant-Governor shall not grant a lease unless he is satisfied that—

- (a) the terms and conditions of the licence in which the land applied for was included and the provisions of this Ordinance and of the regulations relating thereto have been complied with; and
- (b) the applicant is of sufficient financial standing and otherwise fitted for the exercise of the rights and the performance of the obligations arising out of the grant of the lease.

- (3) The land in respect of which a lease is granted shall—
- (a) be land included in the applicant's licence;
 - (b) not exceed five hundred square miles but may consist of one or more areas:

Provided that where the land consists of more than one area, no such area shall be less than one hundred square miles;

- (c) not completely surround any other land.

- (4) Each such area shall be—

- (a) compact and limited by well marked permanent physical boundaries; or

- (b) substantially in the form of rectangles the length of each of which shall not, except with the approval of the Lieutenant-Governor, exceed five times the average width.

(5) A lease shall be in accordance with the prescribed form and shall be subject to the prescribed terms and conditions.

(6) Subject to this Ordinance, the total area of land granted under lease to any one person shall not exceed five hundred square miles.

(7) Where a licensee is granted a lease in respect of portion only of the land comprised in his licence, the licence shall, subject to this Ordinance, continue in force in respect of the balance of the land comprised in the licence (in this subsection referred to as "the reserved land") for a period of three years or for the total term for which a licence may be extended whichever is the longer, during which time the lessee shall have the right to exchange the whole or any portion of the land comprised in his lease for an equal area of the reserved land.

Terms of
lease.

37. (1) A lease shall be for a term of twenty-one years, but may, at the option of the lessee, and subject to this section, be renewed for successive terms of twenty-one years.

(2) Not less than three months before the expiration of the term of a lease, including the term of any renewal thereof, the lessee may apply to the Lieutenant-Governor for the renewal, or further renewal, of the lease.

(3) An application for the renewal, or further renewal, of a lease shall—

- (a) be made in the manner and form prescribed; and

- (b) be accompanied by a fee of Fifty pounds.

(4) The Lieutenant-Governor shall, if he is satisfied that the lessee has complied with the terms and conditions of his lease and with such of the provisions of this Ordinance and of the regulations as are applicable to him, renew the lease for a further period of twenty-one years.

(5) The rent and royalties payable in respect of any renewed lease and the conditions and manner of payment shall be in accordance with the law in force in the Territory at the commencement of the term of the renewal.

Rights of
lessee.

38. A lease shall confer on the lessee the exclusive right to conduct mining operations on the land comprised in the lease together with

the right, subject to compliance with any law relating thereto, to construct and maintain on the land such works, buildings, plant, waterways, roads, pipelines, dams, reservoirs, tanks, pumping stations, tramways, railways, telephone lines, wireless stations and other structures and equipment as are necessary for the full enjoyment of the lease or to fulfil his obligations thereunder.

39. A lessee shall pay in advance, rent as follows:—

In respect of each of the 1st, 2nd, 3rd, 4th and 5th years—£5
per square mile.

In respect of each of the 6th, 7th, 8th, 9th and 10th years—£10
per square mile.

In respect of each year thereafter—£15 per square mile.

Rent payable
by lessee.

40. (1) Subject to this section, every lessee shall pay to the Lieutenant-Governor, at the time and in the manner prescribed, a royalty at the rate of ten per centum upon the gross value at the well head of all crude oil, casinghead petroleum spirit and natural gas produced from the land comprised in his lease.

Royalty.

(2) The gross value of the crude oil, casinghead petroleum spirit and natural gas for the purposes of this section shall be such as is from time to time, at intervals of not less than ten years, agreed upon between the Lieutenant-Governor and the lessee, or, in default of agreement, as is fixed by arbitration under the provisions of the *Arbitration Ordinance, 1912*:

Provided that where the lessee applies for a renewal of his lease, the Lieutenant-Governor or the lessee may request that the agreement or award fixing the gross value shall be varied and in default of agreement as to the variation the gross value may be fixed by arbitration under the provisions of the *Arbitration Ordinance, 1912*.

(3) Royalty shall not be payable in respect of—

(a) any crude oil, casinghead petroleum spirit or natural gas which is unavoidably lost or is returned to the natural reservoir;

(b) any crude oil, casinghead petroleum spirit or natural gas which is used by the lessee for the purposes of mining operations or any incidental purposes (including the heating and lighting of the dwellings of employees and workmen of the lessee engaged by him in connection with the work of production and the heating and lighting of buildings maintained to provide social amenities for those employees and workmen and their families);

(c) any natural gas which or the product of which is not sold.

(4) There shall be set off against the amount of royalty payable in any year under this section the amount of any rent paid by the lessee in respect of that year.

41. (1) Within six months after the date of the grant of a lease, or within such further time (not exceeding six months) as the Lieutenant-Governor, in his absolute discretion, allows, the lessee shall—

Duties of
lessee.

- (a) proceed with reasonable diligence to install, if not already installed, an outfit and equipment suitable for coping with the conditions on the land comprised in the lease, to the satisfaction of the Lieutenant-Governor; and
- (b) commence to drill, by a method approved by the Lieutenant-Governor, at least one well:

Provided that where, in pursuance of a licence, a well has been drilled on the land comprised in the lease, the Lieutenant-Governor may exempt the lessee from compliance with paragraph (b) of this subsection.

(2) Where a lessee has commenced to drill in pursuance of this section, he shall thereafter, during the term of the lease, diligently and continuously carry on operations in a workmanlike manner so that the land comprised in the lease will be developed in accordance with good oil field practice to the satisfaction of the Lieutenant-Governor, and shall continue to drill with reasonable diligence to production or to a depth at which the Lieutenant-Governor, after obtaining a report from the Oil Advisory Committee, is satisfied that any well is unsuccessful.

(3) Where any well is drilled to production, the lessee shall continue to produce until such time as he satisfies the Lieutenant-Governor that further production is not practicable:

Provided that the Lieutenant-Governor may authorize a temporary suspension of operations.

Plans and reports.

42. The lessee shall, not later than the thirty-first day of August in each year, furnish, in the manner and from prescribed, with respect to the period of twelve months ended on the thirtieth day of June in that year—

- (a) a plan showing all development work and improvements on the land comprised in the lease together with a report as to such other matters as are prescribed;
- (b) a statement as to quantity and grade of petroleum (if any) produced and sold; and
- (c) a confidential statement of the moneys received for any petroleum sold.

Surrender of lease.

43. (1) A lessee may—

- (a) upon giving six months' notice in writing to the Lieutenant-Governor;
- (b) upon payment of all rents, royalties, debts and other obligations due and owing to the Crown; and
- (c) upon payment of all moneys and wages due and payable to the workmen and employees of the lessee,

apply to the Lieutenant-Governor for permission to surrender his lease with respect to the whole or portion of the land comprised therein.

(2) The Lieutenant-Governor shall not grant any such application unless he is satisfied that the lessee has made provision for protecting the land to which the surrender relates and making any well thereon safe.

(3) Upon the surrender of a lease under this section, all rights and obligations of the lessee under the lease in respect of the land to which the surrender relates shall be terminated but the surrender shall not release the lessee from any obligation or liability incurred prior to the surrender.

(4) In the event of the lessee having constructed any waterway, road, pipeline, tramway, railway or telephone line on the land to which the surrender relates, the lessee shall be entitled so long as is necessary for the conduct of his mining operations, to a right of way or easement in respect of that waterway, road, pipeline, tramway, railway or telephone line.

44. (1) Where at any time during the term of a lease the Lieutenant-Governor has reason to believe that the lessee has failed, or is not making reasonable efforts, to comply with any of the terms and conditions of the lease or with any of the provisions of this Ordinance or of the regulations which are applicable to him, the Lieutenant-Governor may obtain a report from the Oil Advisory Committee or the Petroleum Advisory Board. Cancellation of leases.

(2) If, after obtaining a report accordingly, the Lieutenant-Governor is satisfied that there has been default by the lessee he may give the lessee a notice in writing specifying the default and requiring him to remedy it within a period of sixty days from the giving of the notice.

(3) If the lessee fails to remedy the default the Lieutenant-Governor may give him not less than fourteen days' notice requiring him to appear before the Warden at a time and place specified in the notice to show cause why his lease should not be cancelled.

(4) 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 he is satisfied that it is just to do so, cancel the lease and upon publication in the *Gazette* of notice of the cancellation, the right, title, estate or interest in the lease of the lessee and of any person claiming under him shall cease and determine without re-entry on the land comprised in the lease.

(5) The production of the *Gazette* containing a notice under the last preceding subsection shall be conclusive evidence in any Court that the right, title, estate or interest in the lease of the lessee, and of any person claiming under him, have been lawfully determined.

(6) A notice under this section shall be given by posting the notice to the lessee's last known address in the Territory, and, where the lessee is a body corporate whose head office is outside the Territory, a copy of the notice shall be posted to that head office. The notice shall, for the purposes of this section, be deemed to have been given at the time when it would be delivered in the ordinary course of post to the lessee's address in the Territory.

45. (1) If a lease is surrendered or cancelled the Lieutenant-Governor may, by notice published in the *Gazette*—

(a) invite tenders for the grant of a lease of the whole or portion of the land comprised in the surrendered or cancelled lease ;

Tenders for surrendered or cancelled lease.

- (b) place a reserve value on the lease; and
 - (c) make the acceptance of the tender subject to such terms and conditions (not inconsistent with this Ordinance) as are specified in the notice.
- (2) The Lieutenant-Governor shall not be obliged to accept any tender.
- (3) Where a tenderer is already the holder of a permit, licence, or lease, the Lieutenant-Governor shall not accept his tender without the approval of the Governor-General.
- (4) Where the Lieutenant-Governor accepts a tender for a lease, notice of the acceptance shall be published in the *Gazette*.
- (5) A lease granted in pursuance of this section—
- (a) shall contain the terms and conditions specified in the notice published in the *Gazette* inviting tenders for the lease, in addition to the prescribed terms and conditions; and
 - (b) shall be subject, *mutatis mutandis*, to the provisions of this Ordinance relating to leases.

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

The Lieutenant-Governor may require licence or lease to be applied for.

46. Where a permittee or licensee applies for a renewal of his permit or licence, the Lieutenant-Governor may, instead of renewing the permit or licence, require the permittee or licensee to make an application for a licence or lease respectively.

Signing of application.

47. An application for the issue of a permit or the grant of a licence or lease shall—

- (a) if made by an individual—be signed by the applicant or by his agent;
- (b) if made by a body corporate—be under the common seal of the applicant; and
- (c) if made by an association of persons, of bodies corporate, or of persons and bodies corporate—be signed by each person or by his agent and be under the seal of each body corporate.

No assignment without consent.

48. (1) Subject to this Ordinance, a permit, licence or lease, or any land included therein, or any interest in any permit, licence or lease, or in any land included therein, shall not be assigned, transferred, sublet, mortgaged, or made the subject of any trust or other dealing, whether directly or indirectly, without the consent in writing of the Lieutenant-Governor.

(2) Any such assignment, transfer, subletting, mortgage, trust or other dealing made without the consent in writing of the Lieutenant-Governor shall be void and of no effect.

(3) The Lieutenant-Governor may, before consenting to any such proposed assignment, transfer, subletting, mortgage, trust or other dealing, require such information as he thinks fit with respect thereto.

(4) The Lieutenant-Governor shall not be bound to consent to any such assignment, transfer, subletting, mortgage, trust or other dealing.

49. If—

- (a) the holder of any permit, licence or lease purports, without the consent in writing of the Lieutenant-Governor, to assign, transfer, sublet or mortgage the permit, licence or lease, or any interest therein or any land included therein, or make the permit, licence or lease, or any interest therein, or any land included therein, the subject of any trust or other dealing; or
- (b) any permit, licence or lease, or any interest therein, or any land included therein is possessed or controlled in any manner whatsoever so that, with the cognizance of the permittee, licensee or lessee, it 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 controlling the price or prices thereof to the detriment of the Public,
- the permit, licence or lease shall be cancelled in the prescribed manner.

Prohibition of combines, etc.

50. A person shall not—

- (a) unless thereto authorized by the Lieutenant-Governor in pursuance of this Ordinance, search or attempt to search for petroleum on any land comprised in any permit, licence or lease, in contravention of the rights of the permittee, licensee or lessee; or
- (b) without reasonable excuse (proof whereof shall lie upon him) interfere with or hinder any permittee, licensee or lessee in the exercise of his rights under his permit, licence or lease.

Infringement of rights of permittee, licensee or lessee.

51. (1) Every entry upon, occupation of or interference with any land included in a licence or lease which is being used by the licensee or lessee for mining operations shall, unless authorized or permitted by the licensee or lessee or by the Lieutenant-Governor in pursuance of this Ordinance or of any other law of the Territory, be deemed to be a trespass:

Trespass on licensed or leased land.

Provided that the owner or occupier of any private or improved land may continue in occupation, use and enjoyment of the land with the exception of such part thereof as is required by the licensee or lessee for mining operations under this Ordinance.

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

52. Notwithstanding the issue or grant of a permit, licence or lease, the following rights are expressly reserved to the Crown and a reservation accordingly shall be deemed to be contained in every permit, licence or lease:—

Reservations in favour of the Crown.

- (a) the right to grant, upon such terms as the Lieutenant-Governor thinks fit, for joint or several use, such rights of way or easements through, upon, over or in the whole or any portion of the land comprised in the permit, licence or

lease as are necessary for or appropriate to the development or working of the land or of other land containing petroleum deposits, or to the treatment or transportation of the products thereof by or under the authority of the Lieutenant-Governor, his permittees, licensees or lessees or for other public purposes, and the Lieutenant-Governor may from time to time make such grants accordingly; and

- (b) the right to all helium found in association with petroleum and the right to erect on the land comprised in the licence or lease a plant for the extraction of helium from any gases produced by a licensee or lessee, together with such incidental rights as are necessary for the purpose of storing and removing the helium.

Rights of licensee to water, etc.

53. A licensee or lessee may, by himself or by his agents or workmen, subject to compliance with any law with respect to water, timber or agistment and subject to such conditions with respect to payment or otherwise 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) included in the licence or lease and use the water for any purpose necessary or incidental to his prospecting operations and mining operations under the licence or lease;
- (b) cut and use the timber on any land included in the licence or lease for building or construction works, firewood or other necessary purposes; and
- (c) depasture on the land any stock used in connection with his operations under the licence or lease or used by workmen or employees of the licensee or lessee.

Use and occupation of private or improved land.

54. A licensee or lessee using or occupying private land or improved land under a licence or lease shall—

- (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 portion of the land as he from time to time requires for effectively carrying on and adequately protecting the mining operations thereon and the structures and equipment in, under or on the land in connection therewith carried on or to be carried on from time to time or at any time during the term of the licence or lease or of any renewal of the licence or lease, together with all rights and easements incidental to that occupation; and
- (b) cause to be surveyed and securely fenced any part of the land comprised in the licence or lease which he requires in order effectively to carry on and adequately to protect his mining operations and works.

Operations on private or improved land.

55. (1) If any of the land comprised in a licence or lease is private land or improved land, operations under the licence or lease shall be conducted so as not to interfere with the existing use of the private land

or improved land to a greater extent than is necessary or is determined by the Lieutenant-Governor.

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

56. (1) The Lieutenant-Governor may grant to a licensee or lessee a right of way or other easement over or through any land for the purposes of the erection and maintenance of a pipeline for the transportation of petroleum to the extent of the ground occupied by the pipeline and a distance not exceeding twenty-five feet on either side of the pipeline, upon such conditions as to survey, rental, situation, application and use as are prescribed. Rights of way and pipeline easements.

(2) Failure to comply with any condition prescribed shall be a ground for cancelling any such grant.

57. (1) Every licensee and lessee shall keep, in a form approved by the Lieutenant-Governor— Lessee to keep records of wells.

(a) accurate records of the drilling, deepening, plugging or abandonment of all wells and of any alterations to the casings thereof; and

(b) a log of all wells containing particulars of the following matters:—

(i) the strata and subsoil through which the well was drilled;

(ii) the casing inserted in the well and any alteration to the casing;

(iii) any petroleum, water, or workable seams of coal encountered; and

(iv) such other matters as the Lieutenant-Governor requires.

(2) The licensee or lessee shall deliver to the Lieutenant-Governor copies of all records and logs kept in pursuance of the last preceding subsection.

58. (1) Every licensee and lessee shall, on or before the last day of each month during the term of his licence or lease, including the term of any renewal thereof, furnish to the Lieutenant-Governor a record, in accordance with a form approved by the Lieutenant-Governor, of the progress of his operations on the land comprised in the licence or lease and containing a statement of— Plans and records.

(a) the depth drilled in each well;

(b) any petroleum, water or workable seams of coal encountered in the course of his operations;

(c) all crude oil produced and casinghead petroleum spirit recovered; and

(d) the areas in which any geological work has been carried out.

(2) Every licensee and lessee shall, within two months after the end of each year comprised in the term of his licence or lease, including the term of any renewal thereof, furnish to the Lieutenant-Governor a record in accordance with a form approved by the Lieutenant-Governor, of the operations conducted during that year on the land comprised in the licence or lease together with a plan upon a scale approved by the Lieutenant-Governor—

- (a) showing the situation of all wells;
- (b) showing all development and other works executed by him in connection with his mining operations; and
- (c) setting out full particulars of any ancillary rights acquired for the exercise of the rights or for the performance of the obligations arising out of the grant of the licence or lease.

(3) Every licensee and lessee shall—

- (a) keep accurate geological plans, maps and records relating to the land comprised in his licence or lease; and
- (b) furnish to the Lieutenant-Governor such other plans and information as to the progress of operations on the land comprised in the licence or lease as the Lieutenant-Governor from time to time requires.

Samples of strata, petroleum and water.

59. (1) Every licensee and lessee shall, so far as is reasonably practicable, collect, label and preserve for reference for a period of at least six months characteristic samples of the strata encountered in any well on the land comprised in the licence or lease and samples of any petroleum or water discovered in any well.

(2) Every licensee and lessee shall deliver to the Lieutenant-Governor representative specimens of any such samples and the Lieutenant-Governor may retain any samples so delivered.

Reports to be treated as confidential.

60. (1) All logs, records, plans, maps, accounts and information which a licensee or lessee is required to furnish under the provisions of this Ordinance shall be furnished at the expense of the licensee or lessee and shall, except with the consent in writing of the licensee or lessee, which shall not be unreasonably withheld, be treated as confidential:

Provided that any such logs, records, plans, maps, accounts or information may be disclosed to any person expressly authorized in that behalf by the Minister or the Lieutenant-Governor.

(2) The Minister or the Lieutenant-Governor may at any time make use of any logs, records, plans, maps, accounts or information furnished by a licensee or lessee for the purpose of preparing and publishing aggregate returns and general reports with respect to operations under this Ordinance.

Examination samples.

61. Every licensee and lessee shall cause to be made a palaeontological examination of all drilling samples and cores produced from each test well drilled and shall furnish to the Lieutenant-Governor a report of all examinations so made.

62. A licensee or lessee shall not, except with the consent of the Lieutenant-Governor, commence drilling within three hundred and twenty-five feet of any of the boundaries of the land comprised in his licence or lease.

Restrictions on situations of drills.

63. (1) Every licensee and lessee shall maintain all apparatus and appliances, and all wells capable of producing petroleum, on the land comprised in his licence or lease in good repair and condition and shall execute all mining operations on the land in a proper and workmanlike manner in accordance with methods and practice customarily used in good oil field practice.

Avoidance of harmful methods of working.

(2) Without prejudice to the generality of the last preceding subsection, every licensee or lessee shall take all practicable steps in order—

- (a) to control the flow, and to prevent the escape or waste, of petroleum discovered in or found on the land comprised in his licence or lease ;
- (b) to preserve the land comprised in the licence or lease for production operations ;
- (c) to prevent damage to adjacent petroleum bearing strata ;
- (d) to prevent the entrance of water through wells to petroleum bearing strata ; and
- (e) to prevent the escape of petroleum into any water well, spring, stream, river, lake, reservoir, estuary or harbour.

(3) Every licensee and lessee shall comply with any directions from time to time given to him in writing by the Lieutenant-Governor relating to any of the matters set out in the last preceding subsection.

64. Every licensee and lessee shall comply with any directions from time to time given to him in writing by the Lieutenant-Governor for securing the health and safety of persons employed in or about the land comprised in his licence or lease.

Health and safety of workers and employees.

65. (1) Every licensee or lessee shall use methods and practice customarily used in good oil field practice for confining the petroleum obtained from the land comprised in his licence or lease in tanks, gas holders, pipes, pipelines or other receptacles constructed for that purpose.

Provision of storage tanks, pipes, pipelines and other receptacles.

(2) A licensee or lessee shall not, except as a temporary method during emergency, place or keep any petroleum in an earthen reservoir.

66. A licensee or lessee shall not cause or permit any waste oil, salt water or refuse to flow into or over, or to be deposited upon, any land, whether included in his licence or lease or not.

Waste oil, salt water or refuse not to be deposited on land.

67. (1) Every licensee and lessee shall give to the Lieutenant-Governor not less than fourteen days' notice in writing of his intention to abandon any well and shall not, without the consent in writing of the Lieutenant-Governor, withdraw any cemented string or other permanent form of casing from any well which it is proposed to abandon.

Abandonment and plugging of wells.

(2) A licensee or lessee shall so securely plug every well which he intends to abandon as to shut off all water from all petroleum bearing strata, or any workable seams of coal.

Petroleum (Prospecting and Mining) Ordinance, 1938.

(3) Before commencing to plug any well which it is intended to abandon, the licensee or lessee shall submit to the Lieutenant-Governor for his approval particulars in writing of the method of plugging which it is proposed to adopt.

(4) The Lieutenant-Governor may require that a well shall not be plugged, or any works be executed for that purpose, except in the presence of a person thereto authorized by him.

Compliance with Ordinance.

68. (1) Every licensee and lessee shall duly and punctually comply with this Ordinance and the regulations and with any instructions of the Lieutenant-Governor given under this Ordinance or the regulations or under his licence or lease :

Provided that the licensee or lessee shall not be responsible for delays due to any cause beyond his control, proof whereof shall lie upon him.

(2) In the event of failure or neglect of a licensee or lessee to comply with any of the provisions of this Ordinance or of the regulations, or with any lawful instruction given by the Lieutenant-Governor, the Lieutenant-Governor may, by his workmen and agents, enter on the land comprised in the licence or lease and carry out any necessary operations at the licensee's or lessee's expense.

Authority to enter on leased land, etc.

69. For the purposes of this Ordinance, the Lieutenant-Governor or any authorized officer may, without incurring any liability, enter upon, occupy or interfere with any land whatsoever, including land included in a permit, licence or lease.

Delivery of premises in cases of determination of licence or lease.

70. (1) In the event of the cancellation or surrender of a licence or lease, the licensee or lessee shall deliver up the land comprised therein and all wells thereon in good order and condition to the satisfaction of the Lieutenant-Governor.

(2) A licensee or lessee may, within three months after the cancellation or surrender of his licence or lease, remove all his plant, buildings, equipment and other property from the land comprised therein.

Right to mine for mineral oil.

71. 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 any industrial process shall be issued, granted or allowed in respect of any land included in a licence or lease.

Drilling for water prohibited.

72. A person shall not, except in accordance with such conditions as are determined by the Lieutenant-Governor or as are prescribed, drill for water during the currency of any licence or lease in or upon any land included therein.

Devolution of rights.

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

Effect of cancellation of permit, licence or lease.

74. The cancellation of a permit, licence or lease by the Lieutenant-Governor in pursuance of this Ordinance—

(a) shall be final and without appeal ; and

(b) shall not release the permittee, licensee or lessee from any liability in respect of the permit, licence or lease incurred prior to the date of cancellation.

75. (1) Where the Lieutenant-Governor is satisfied that— Unit
development.

(a) the land comprised in any licence or lease forms part of a single geological petroleum structure or petroleum field (in this section referred to as "the oilfield") extending beyond that land; and

(b) it is desirable, for the purpose of securing economy and efficiency and of avoiding wasteful and harmful development and practices, that the oilfield should be worked as one unit, the Lieutenant-Governor may after obtaining a report from the Oil Advisory Committee—

(i) vary the terms of the licence or lease by including therein any Crown land or private land to which the oilfield extends; and

(ii) if the oilfield extends into land included in any other licence or lease, require the licensees or lessees, by notice in writing, to prepare and furnish to him a scheme for the working and development of the oilfield as one unit.

(2) A notice under paragraph (ii) of the last preceding subsection shall specify the land in respect of which and the time within which the Lieutenant-Governor requires the scheme to be furnished.

(3) If a scheme is not furnished within the time so specified, or if the Lieutenant-Governor does not approve the scheme furnished to him, the Lieutenant-Governor shall prepare a scheme and supply particulars thereof to each licensee and lessee to whom notice was given and each such licensee and lessee shall perform and observe all the terms and conditions thereof.

76. (1) Any licensee or lessee may, subject to the approval of the Lieutenant-Governor, make an agreement with any other licensee or lessee of land situated in the same district for the drilling of a well by the parties thereto on any land included in the licence or lease of either of them. Agreements to
drill wells.

(2) An agreement for the purpose referred to in the last preceding subsection shall not have any force or effect unless and until it has been approved by the Lieutenant-Governor.

Division 6.—Compensation.

77. (1) Any permittee, licensee or lessee, as the case may be, shall be liable to compensate the owner or occupier of private land or improved land for— Compensation
for mining
operations.

(a) all damage sustained by the owner or occupier to crops and improvements thereon, including permanent artificial water supply, by reason of any operations and construction works carried on or erected thereon by the permittee, licensee or lessee, as the case may be; and

(b) all damage sustained by reason of the occupation of that portion of the land occupied by the permittee, licensee or lessee for the purpose of his operations or construction works during the period of occupation.

(2) Compensation shall not be payable under this Ordinance, where the operations of the permittee, licensee or lessee do not affect any portion of the surface of the land.

Compensation before drilling on private or improved land.

78. If a licensee or lessee decides to drill on any private land or improved land included in his licence or lease, he shall, unless the amount of compensation has been fixed by agreement under the next succeeding section, before commencing to drill, and whenever necessary thereafter, apply to the nearest Warden's Court to determine the amount of compensation payable by him in respect of the drilling operations.

Agreement as to compensation.

79. (1) A permittee, licensee or lessee may agree with any person entitled to compensation under this Ordinance as to the amount of 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 nearest Warden's Office or in the Department of the Commissioner for Lands, Port Moresby.

(3) If no agreement is made under Subsection (1) of this section, either party may apply to the nearest Warden's Court to determine the amount of compensation payable.

Measure of compensation.

80. (1) Subject to this Ordinance, 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 by the carrying on of operations by a 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 easements; 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 damage or loss for which compensation is being determined and shall deduct the amount so received from the amount which they or either of them would otherwise be entitled to.

Additional compensation.

81. If, after the Warden's Court has determined any amount of compensation, it is proved to the Warden's Court that further loss or damage (not being loss or damage in respect of which compensation

has already been determined) has been sustained, the Warden's Court may determine the further loss or damage and order that further compensation be paid by the permittee, licensee or lessee, to the person entitled.

82. If any compensation determined by the Warden's Court under this Ordinance and payable by a permittee, licensee or lessee is not paid within three months after the determination, the Lieutenant-Governor may cancel the permit, licence or lease. Penalty for non-payment of compensation.

PART IV.—MISCELLANEOUS.

83. All applications, statements, representations and reports made or furnished to the Lieutenant-Governor under this Ordinance shall, if the Lieutenant-Governor so requires, be verified by statutory declaration in such form as the Lieutenant-Governor requires or as is prescribed. Verification of statements.

84. (1) A person who acts in the execution of any duty under this Ordinance shall not, except in the performance of his duty thereunder, make a record of or divulge any information supplied to the Lieutenant-Governor in pursuance of this Ordinance. Secrecy to be observed by officers.

(2) A person who has been an officer or has performed any duty under this Ordinance shall not communicate any information acquired by him in the performance of any duty thereunder to any person other than a person to whom he is authorized by law or by the Lieutenant-Governor to communicate it.

85. Any person who contravenes, or fails to comply with, any provision of this Ordinance which is applicable to him, shall be guilty of an offence. Offences.

Penalty: Two hundred and fifty pounds.

86. Nothing in this Ordinance shall take away or prejudicially affect any right of action which any person has for any loss or damage sustained by him by reason of any mining operations carried on in pursuance of the *Mining Ordinance, 1937*, and other Ordinances relating to mining in force at the commencement of this Ordinance on private land, other than for loss or damage in respect of which compensation is payable under this Ordinance. Other rights of action not affected.

87. (1) All fees, rent and other payments under this Ordinance or the regulations shall, if not paid by the due date, be increased by ten per centum for each month or portion of a month during which the fee, rent or other payment remains unpaid. Fees, etc., payable in advance.

(2) In the event of any fee, rent or payment due in respect of a permit, licence or lease being in arrears for not less than three months, the Lieutenant-Governor may cancel the permit, licence or lease.

88. (1) Where the Governor-General declares, by Proclamation published in the *Gazette*, that a state of emergency exists, the Lieutenant-Governor shall have the right of pre-emption of all petroleum, and of any product of that petroleum, produced by a licensee or lessee from any land included in a licence or lease, and the licensee or lessee shall, if so required by the Lieutenant-Governor, deliver the petroleum Right of pre-emption.

or product in accordance with the directions of the Lieutenant-Governor.

(2) The compensation to be paid for any petroleum or product so delivered shall, in default of agreement, be fixed by arbitration in accordance with the provisions of the *Arbitration Ordinance, 1912.*

Disposal of
petroleum and
petroleum
products.

89. (1) So long as any petroleum, or any product thereof, obtained from any land included in a lease can be consumed in Australia the lessee shall, if so required by the Minister, ensure that such petroleum and products thereof shall be disposed of only for consumption in Australia.

(2) A lessee shall, if so required by the Minister, refine, or cause to be refined, within Australia, such of the petroleum produced from the land included in his lease as is required for consumption in Australia.

(3) For the purposes of this section, the expression "Australia" includes the whole of the Commonwealth of Australia and any Territory under the authority of the Commonwealth of Australia including any Territory governed by the Commonwealth of Australia under Mandate.

Advertise-
ments,
statements,
etc.

90. (1) No statement shall be made in any notice, advertisement, prospectus or other document issued by or with the knowledge of a permittee, licensee or lessee, or in any other manner, claiming or suggesting, whether expressly or by implication, that the Minister, the Lieutenant-Governor, any Government Department, or any person or body acting on behalf of the Minister, a Government Department or the Lieutenant-Governor, has formed or expressed any opinion that any land included in a permit, licence or lease is from its geological formation or otherwise one in which petroleum is likely to be obtainable.

(2) The provisions of the last preceding subsection, or a statement to the effect thereof, shall be included in or indorsed on any prospectus, statement in lieu of prospectus, notice, circular, advertisement or other invitation issued by, or with the knowledge of, a permittee, licensee or lessee offering to the public for subscription or purchase any shares or debentures of a company or intended company.

Regulations.

91. The Lieutenant-Governor in Council 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 prescribing penalties not exceeding One hundred pounds for offences against the regulations.

Passed in Council this eighth day of September, in the year of
Our Lord One thousand nine hundred and thirty-eight.

*Assented to by His Excellency the Governor-General of the
Commonwealth of Australia on the fourteenth day of September,
One thousand nine hundred and thirty-eight.*
