

PAPUA.



**MINERAL OIL AND COAL ORDINANCES, 1923-1929.<sup>(a)</sup>**

*Relating to Mining for Mineral Oil and Coal.*

[RESERVED 8TH DECEMBER, 1923;

ASSENTED TO 11TH DECEMBER, 1923.]<sup>(b)</sup>

**B**E it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Mineral Oil and Coal Ordinance, 1923.*<sup>(a)</sup> Short title.

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\* Repealed by  
2 of 1924, s. 2.

3. Sections One and Three of the *Mining Ordinance, 1911* (No. 4 of 1912) and such of the provisions of Parts VI and XIII of *The Mining Act of 1898* (Queensland adopted) as are inconsistent with this Ordinance are hereby repealed. Repeal.

4. In this Ordinance unless the contrary intention appears—

“Director of Mines” means the Director of Mines for the Territory. “Director of Mines.”

(a) The *Mineral Oil and Coal Ordinances, 1923-1929*, comprises the *Mineral Oil and Coal Ordinance, 1923* (1 of 1924), as amended by the *Mineral Oil and Coal Ordinance* (No. 2), 1923 (2 of 1924); by the *Mineral Oil and Coal Ordinance, 1925* (17 of 1925); by the *Mineral Oil and Coal Ordinance, 1926* (8 of 1926); by the *Mineral Oil and Coal Ordinance, 1929* (8 of 1929); by the *Mineral Oil and Coal Ordinance* (No. 2), 1929 (9 of 1929), and as so amended may be cited as the *Mineral Oil and Coal Ordinances, 1923-1929*. See Ordinance No. 9 of 1929, s. 1 (3).

(b) This is the date of assent to the *Mineral Oil and Coal Ordinance, 1923*. The assent was notified in *Gazette* No. 2 of 7th January, 1924. The *Mineral Oil and Coal Ordinance* (No. 2), 1923, was assented to on the 20th December, 1923, and notified in *Gazette* No. 2 of 7th January, 1924. The *Mineral Oil and Coal Ordinance, 1925*, was assented to on the 21st December, 1925, and notified in *Gazette* No. 16 of 31st December, 1925. The *Mineral Oil and Coal Ordinance, 1926*, was assented to on the 9th September, 1926, and notified in *Gazette* No. 17 of 6th October, 1926. The *Mineral Oil and Coal Ordinance, 1929*, was assented to on the 21st October, 1929, and notified in *Gazette* No. 16 of 4th December, 1929. The *Mineral Oil and Coal Ordinance* (No. 2), 1929, was assented to on the 17th December, 1929, and notified in *Gazette* No. 17 of 24th December, 1929.

Cf. N.G.  
*Mineral Oil  
and Coal  
Ordinance,*  
1928, s. 4.

Inserted by  
8 of 1929, s. 2.

"Mineral oil."

Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1922-1923, s. 3.

"Native  
lands."

Cf. Papua No. 4  
of 1912, s. 2 (2).

"Payable."

Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1922-1923, s. 3.

"Unauthorized  
person."

Cf. *Ib.* s. 3.

"Warden."

Cf. *Ib.* s. 3.

Effect of  
licence to  
search for  
mineral oil or  
coal.  
Cf. *Ib.* s. 4.  
Amended by  
9 of 1929, s. 2.

Amended by  
17 of 1925, s. 2,  
and by 8 of 1929,  
s. 3.

"Gross value of crude oil" means the market value of crude oil at the bore.

"Mineral oil" means any mineral oil occurring in a free state and obtainable by boring or wells; but does not include mineral oil extracted from coal shale or other substance by some industrial process.

"Native lands" means lands which are owned and occupied by natives and have never vested in His Majesty.

"Payable" as applied to mineral oil means mineral oil of such quantity and quality that it can under ordinary circumstances be worked with profit.

"Unauthorized person" means any person not being a Government official or other person authorized by the Director of Mines or authorized under this Ordinance or the lessee or licensee under this Ordinance or any person employed by the lessee or licensee.

"Warden" means a Warden appointed under *The Mining Act of 1898* (Queensland adopted).

5. (1) A licence to search for mineral oil or coal or both mineral oil and coal may be granted in accordance with this Ordinance over any land not exceeding five hundred square miles in area in respect of which the mineral oil and coal therein are reserved to or belong to the Crown and subject to this Ordinance a licence shall—

(a) be for a period of five years from the date thereof or from such other date as may be prescribed;

(b) confer on the licensee the exclusive right to search for mineral oil or coal or both as the case may be in the land included therein and to do all things necessary or incidental thereto including the sinking of shafts and bores and the erection of machinery;

(c) in the event of payable mineral oil being discovered by a licensee on the land included in a licence to search for mineral oil confer on the licensee an exclusive right to a mineral oil lease in respect of one area of one hundred

and sixty acres and also a mineral oil reward lease in respect of a further area of eight square miles to be selected by the licensee from the area to which the licence relates:

Provided that if a licensee fails within six months after the discovery of payable mineral oil to apply for a mineral oil lease and a mineral oil reward lease in pursuance of this paragraph the right shall be deemed to be determined; and

- (d) in the event of coal being discovered in payable quantities on the land included in a licence to search for coal or mineral oil and coal confer on the licensee an exclusive right to a coal lease in respect of one area of six hundred and forty acres to be selected by the licensee from the area to which the licence relates:

Amended by  
17 of 1925, s. 2.

Provided that if a licensee fails within six months after the discovery to apply for a coal lease in pursuance of this paragraph the right shall be deemed to be determined.

- (2) On the date of the commencement of any lease granted to a licensee in pursuance of the right referred to in Paragraph (c) or (d) of Subsection (1) of this section or at the expiration of six months after the discovery of payable mineral oil or of coal in payable quantity as the case may be or if during that period the licensee fails to apply for a mineral oil lease or for a coal lease as the case may be the licence of that licensee shall be deemed to be determined.

Amended by  
17 of 1925, s. 2.

- (3) Licences under this Ordinance shall be subject to such terms and conditions as are prescribed.

**5A.** (1) On the receipt of a report from a licensee of the discovery of mineral oil or coal the Lieutenant-Governor shall decide whether the mineral oil or coal is payable within the meaning of Section Four of the Principal Ordinance.

Payable  
mineral oil  
or coal.  
Cf. N.G.  
*Mineral Oil  
and Coal  
Ordinance*,  
1928, s. 20.  
Added by  
8 of 1929, s. 4.

- (2) If the licensee is dissatisfied with the Lieutenant-Governor's decision he may appeal in the prescribed manner and time to a Warden's Court for the determination of the question and the Court may determine the question.



(3) In the event of a dispute as to whether payable mineral oil or payable coal has been discovered by a licensee the date of the commencement of the period of six months within which application for a mineral oil lease a mineral oil reward lease or a coal lease must be made in accordance with the provisions of Section Five of the Principal Ordinance shall be deemed to be the date on which the Warden's Court decides that the mineral oil or coal as the case may be is payable.

Application for  
licences to  
search for  
mineral oil and  
coal.

Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1923-1923, s. 5.

Amended by  
8 of 1929, s. 5,  
and by 9 of 1929,  
s. 3.

**6.** (1) Any company incorporated or registered under the provisions of the law relating to companies in force in the Territory which desires to prospect for mineral oil or coal or both mineral oil and coal may make application to the Lieutenant-Governor through the Director of Mines for the grant by the Lieutenant-Governor of a licence in respect of any area of land not exceeding five hundred square miles described in the application.

(2) The Lieutenant-Governor may either refuse the application or require it to be amended or may accept it.

(3) Upon the acceptance of the application or upon its being amended to the satisfaction of the Lieutenant-Governor and accepted in its amended form the Lieutenant-Governor may grant to the applicant a licence in accordance with the application.

(4) Applications for licences shall be dealt with in the order in which they are received by the Director of Mines who shall cause to be noted on each application the date and hour it is received by him; and in the event of two or more applications being received simultaneously the Lieutenant-Governor or officer thereunto authorized by him shall decide the order of the priority of the application by lot.

(5) Licences shall be in the prescribed form.

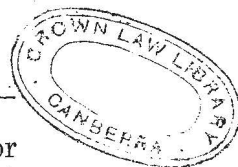
Added by  
9 of 1929, s. 4.

(6) Every application for a licence by a company shall set out the actual amount of capital subscribed at the date of such application and if any part of the capital subscribed is other than in cash the full particulars thereof.

Licence fees.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1923-1923, s. 6.

**7.** (1) The fee for a licence shall be Ten pounds per annum payable in advance.

(2) The amount of the fee for the first year shall be lodged at the time of application.



(3) In the event of the amount of the fee payable for any licence in respect of any year subsequent to the first not being paid within thirty days from the date on which it becomes due the licence shall cease and determine.

**8.** (1) The holder of a licence may apply to the Lieutenant-Governor through the Director of Mines before the expiration of the licence or within thirty days thereafter for a renewal of the licence.

Renewal of  
licences.  
Cf. N.T.  
Mineral Oil  
and Coal  
Ordinance,  
1922-1923, s. 7.

(2) The Lieutenant-Governor may accept the application and grant a renewal of the licence for a further period of five years or if he considers that the licence should not be renewed he may refer the matter with a full report for decision by the Minister and the Minister may grant or refuse the application.

Amended by  
8 of 1926, s. 2.

**9.** (1) The Lieutenant-Governor may cancel a licence at any time for non-fulfilment of any of the conditions attached to the licence.

Cancellation  
of licence.  
Cf. N.T.  
Mineral Oil  
and Coal  
Ordinance,  
1922-1923, s. 6.

(2) No person or body of persons or company shall be entitled as against the Territory the Lieutenant-Governor or any authority of the Territory to compensation or damages in respect of the cancellation of any licence under this Ordinance.

**10.** The holder of a licence under this Ordinance shall not by virtue only of the licence have the right to graze any live stock on the land included in the licence beyond such number as the Lieutenant-Governor considers sufficient to enable such holder to carry out the purposes of the licence.

Licensee not to  
have right to  
graze cattle.  
Cf. *Ib.* s. 10.

**11.** The occupier of pastoral lands covered by a licence under this Ordinance shall have free access at all times with or without cattle sheep and other live stock to any surface or other water on the land included in the licence which has not been provided by artificial means by the licensee and the licensee shall permit the occupier to use such water for such purposes as the occupier thinks fit.

Access to  
water.  
Cf. *Ib.* s. 11.

**12.** A licence shall not be transferred or assigned without the approval in writing of the Lieutenant-Governor being first obtained.

Licensee not to  
be transferred.  
Cf. *Ib.* s. 12.

Variation of conditions.  
Cf. N.T.  
*Mineral Oil and Coal Ordinance, 1922-1923, s. 13.*  
Amended by  
17 of 1925, s. 3.

**13.** The Lieutenant-Governor may at his discretion vary any condition attached to a licence but not so as to add to the obligations of the licensee under the licence or may extend the time for carrying out any such condition.

One licence only for any company.  
Cf. *Ib.* s. 14.

**14.** No company shall be entitled to hold more than one licence at the one time unless specially authorized thereto by the Lieutenant-Governor.

Surrender of licences.  
Cf. *Ib.* s. 15.

**15.** A licensee may at any time surrender a licence by notice to the Lieutenant-Governor in the prescribed form and the licence shall thereupon determine.

Licensee to engage in search for mineral oil or coal.  
Cf. *Ib.* s. 16.

**16.** (1) The licensee under a licence shall within ninety days after the grant of the licence or such further time as the Lieutenant-Governor allows commence to search for mineral oil or coal or both as the case may be upon the land held under licence and upon the failure of the licensee to do so the Lieutenant-Governor may cancel the licence.

(2) The licensee shall employ at least four white men continuously for a period of not less than six months in each year in actual prospecting or searching for mineral oil or coal upon the land covered by the licence :

Added by  
9 of 1929, s. 5.

Provided that if the Lieutenant-Governor is not satisfied that the ground included in the licence has been the subject of a proper geological oil survey the Lieutenant-Governor may require that one of the four white men employed as aforesaid shall be a geologist approved by him.

(3) If at any time during the currency of a licence complaint is made to the Lieutenant-Governor or he has cause to believe that the licensee has not made or is not making reasonable endeavours to search for mineral oil or coal or both as the case may be upon the land or is not complying with the provisions of this Ordinance or observing the conditions of the licence held by such licensee he may direct a Warden or Magistrate to call upon the licensee to show cause why the licence should not be cancelled.

(4) The Warden or Magistrate shall thereupon give at least thirty days notice to the licensee or the agent of the licensee to appear before him to show cause why the licence should not be cancelled and having heard the



case in open Court shall forward the evidence and his report thereon to the Lieutenant-Governor who if satisfied that it is just to do so may cancel the licence.

**17.** Any person who searches or attempts to search for mineral oil or coal on land included in any licence in contravention of the rights of the licensee or who (without reasonable ground proof whereof shall be upon him) hinders or interferes with any licensee in the exercise of the rights of such licensee shall be guilty of an offence.

Penalty for infringing rights of licensee.  
Cf. N.T. *Mineral Oil and Coal Ordinance*, 1922-1923, s. 17.

Penalty : One hundred pounds.

**18.** (1) Every licensee shall furnish to the Lieutenant-Governor through the Director of Mines at the end of each three months or at such other interval as the Lieutenant-Governor from time to time directs a report showing the number of white men employed and the nature of the work done in searching for mineral oil or coal on the land included in the licence during the period covered by the report.

Reports by licensees.  
Cf. *Id.*, s. 18.

(2) If a licensee discovers mineral oil or coal or any indication of the presence of mineral oil or coal such licensee shall immediately report the discovery to the Lieutenant-Governor.

Amended by 17 of 1925, s. 4.

(3) In the event of a licensee reporting the discovery of mineral oil or of any indication of the presence of mineral oil the Lieutenant-Governor or any officer thereto authorized by him may direct the future working of the land covered by the licence of that licensee to such extent and in such manner as is in his opinion necessary to guard against loss or waste of mineral oil and such directions when given in writing by the Lieutenant-Governor or any officer thereto authorized by him to the licensee shall be observed and carried into effect by the licensee.

Amended by 17 of 1925, s. 4.

(4) In the event of the refusal or failure of the licensee to carry out any direction given under this section the Lieutenant-Governor may cancel the licence.

**19.** (1) Leases called mineral oil leases or coal leases may be granted under this Ordinance of any land to companies for mining for mineral oil or coal.

Mineral oil leases.  
Cf. N.T. *Mineral Oil and Coal Ordinance*, 1922-1923, s. 19.

(2) Notwithstanding anything contained in any Ordinance leases under this Ordinance shall be granted exclusively by the Lieutenant-Governor.

(3) An application for a mineral oil lease or a coal lease shall be made in the prescribed form and shall be lodged with the Director of Mines for transmission to the Lieutenant-Governor.

(4) Each application shall be accompanied by the prescribed survey fee when required and the first year's rent.

Amended by  
17 of 1925, s. 5  
(a) (b), and by  
8 of 1929, s. 6.

(5) Applications for a mineral oil lease or a coal lease in respect of any area shall be dealt with in the order in which they are received by the Director of Mines who shall cause to be noted on each application the date and hour it is received by him and in the event of two or more applications being received simultaneously the Lieutenant-Governor or officer thereto authorized by him shall decide the order of the priority of the applications by lot:

Provided that nothing in this subsection shall affect the right of a licensee under this Ordinance to receive a mineral oil lease not exceeding one hundred and sixty acres and also a mineral oil reward lease not exceeding eight square miles or a coal lease not exceeding six hundred and forty acres in respect of land held by such licensee under licence.

Substituted by  
17 of 1925, s. 5 (c)

(6) The area comprised in a mineral oil lease shall as nearly as circumstances permit be that of a square and shall not exceed one hundred and sixty acres.

Added by  
17 of 1925, s. 5 (c)  
Amended by  
8 of 1929, s. 7.

(6A) A mineral oil reward lease granted in pursuance of Section Five of this Ordinance may be of an area not exceeding eight square miles and may be taken up in four separate contiguous blocks each containing six hundred and forty acres and having sides running north and south and east and west and

(a) either together forming a rectangle the length of which is not more than eight times greater than the breadth; or

Added by  
8 of 1929, s. 7.

(b) being "stepped" in the manner proposed by the licensee and approved by the Lieutenant-Governor and in sixteen separate blocks of an area of one hundred and sixty acres each which need not be contiguous.



(7) The area comprised in a coal lease shall not exceed six hundred and forty acres and shall be subject to such conditions as are prescribed.

(8) The term of a mineral oil lease or a coal lease shall not exceed twenty-one years.

(9) The yearly rent for a mineral oil lease or a coal lease shall be payable in advance and shall be at the rate of one shilling per acre.

(10) A mineral oil lease or a coal lease may be renewed for a further term not exceeding twenty-one years provided that the Lieutenant-Governor is satisfied that the lessee has faithfully observed the conditions of the lease.

Amended by  
17 of 1925, s. 5 (d)

(11) If the Lieutenant-Governor is not satisfied that the lessee has faithfully observed the conditions of the lease or if for any other reason he considers that the lease should not be renewed he shall refer the matter with a full report for decision by the Minister and the Minister may renew or refuse to renew the lease.

Added by  
17 of 1925, s. 5 (e)  
Amended by  
8 of 1926, s. 3.

**20.** (1) An applicant for a lease under this Ordinance shall before lodging an application mark the land to be included in the lease.

Description  
and marking  
of land the  
subject of  
lease  
applications.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,  
1922-1923, s. 20.*

(2) For the purposes of this section land shall be marked by the erection at one corner thereof of a post or cairn of stones at least three feet high and the fixing thereto of a notice in the prescribed form.

(3) The application shall be accompanied by a description and plan sufficient to identify the land referred to in the application.

(4) The shape of the land applied for shall as nearly as circumstances permit be that of a square:

Provided that when owing to the position of adjoining boundaries or natural features a square area is not available intervening or irregularly shaped pieces of land may be applied for.

**21.** (1) A licence or lease under this Ordinance may be granted to—

Licences and  
leases granted  
to certain  
companies  
only.  
Cf. *Id.* s. 21.

(a) a company formed or incorporated under the law of the Territory; or

(b) a company formed and incorporated under the law of the United Kingdom or of some other

part of the King's Dominions and registered under the provisions of Part V of the *Companies Ordinance, 1912*;

two thirds at least of the shares of which are held by natural-born or naturalized British subjects.

(2) A lease or licence under this Ordinance shall not be granted to any company which does not come within the description set out in Subsection (1) of this section.

Cancellation of  
leases or  
licences.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1922-1923, s. 22.

**22.** The Lieutenant-Governor may cancel any lease or licence granted under this Ordinance if in his opinion the lessee or licensee as the case may be has ceased to be a company capable of being granted a lease or licence under this Ordinance.

Certain  
companies not  
to hold leases.  
Cf. *Ib.* s. 23.

**23.** No company formed under the law of any country not being a part of the British Dominions shall be capable of directly or indirectly acquiring or holding a mineral lease or a coal lease or any interest therein whether legal or equitable.

Lessee not to  
transfer  
without  
consent.  
Cf. *Ib.* s. 24.

**24.** The lessee under a mineral oil lease or coal lease shall not without the consent of the Lieutenant-Governor be entitled to assign or transfer the lease.

Right of  
pre-emption.  
Cf. *Ib.* s. 25.

**25.** (1) The Governor-General of the Commonwealth of Australia shall have the right of pre-emption of all oil produced by a lessee from any land held under a mineral oil lease and of all products of such oil and in the event of the exercise of this right the lessee shall do all things reasonable in the power of such licensee to facilitate the delivery of the oil or products in accordance with the directions of the Governor-General.

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

Increase of  
supply.  
Cf. *Ib.* s. 26.

**26.** In the event of any emergency the lessee under a mineral oil lease shall if so requested by the Lieutenant-Governor use the utmost endeavours to increase the supply of oil and oil products for the use of the Crown.

Effect of  
approval of  
application.  
Cf. *Ib.* s. 27.

**27.** When an application for a licence or lease has been approved notice of such approval shall be given to the applicant and upon the receipt thereof the applicant shall

be at liberty to enter upon the land for the purpose for which the licence or lease is to be granted as if the licence or lease had been actually issued and shall be subject to the terms and conditions of the licence or lease to the same extent as if it had been actually issued :

Provided that any application for a lease approved before the land comprised in the application has been surveyed shall be deemed to be approved subject to the land being found to be available after the survey has been made.

- 28.** A licensee or lessee shall in relation to the land included in the licence or lease have the right—
- (a) to cut and use a sufficient quantity of timber to enable the purpose of the licence or lease to be carried out ;
  - (b) to take water from any natural spring lake pool or watercourse on the land and to use it for any purpose necessary or incidental to the use of the land under the licence or lease ; and
  - (c) generally to do all things necessary or incidental to the carrying on of prospecting or mining operations effectually therein or thereon.

Right of licensee or lessee to take timber and water.  
Cf. N.T. *Mineral Oil and Coal Ordinance*, 1922-1923, s. 28.

- 29.** A mineral oil lease shall contain the following reservations covenants and conditions :—
- (a) A reservation of all watercourses and timber and timber trees on the land ;
  - (b) A reservation of power to authorize mining on the land for any purpose other than mineral oil ;
  - (c) A covenant by the lessee to pay the rent as and when it becomes due ;
  - (d) A covenant by the lessee to pay in accordance with this Ordinance a royalty of Five pounds per centum on the gross value of all crude oil obtained from the land :

Reservations and covenants in mineral oil leases.  
Cf. *Id.* s. 29.

Provided that in the case of leases granted pursuant to Paragraph (c) of Subsection (1) of Section Five of this Ordinance to the licensee who first discovers payable mineral oil the royalty shall be at the rate of Two pounds ten



shillings per centum on the gross value of all crude oil obtained from the land during the first five years of the lease and thereafter shall be at the rate of Five pounds per centum as aforesaid :

Added by  
8 of 1929, s. 8.

Provided further that a royalty shall not be charged on oil which the lessee satisfies the Lieutenant-Governor was used by the lessee for production purposes or was unavoidably lost ;

Omitted by  
17 of 1925, s. 6 (a)

Amended by  
17 of 1925, s. 6 (b)  
and by  
8 of 1929, s. 9.

(e) A covenant by the lessee to work the land to the satisfaction of the Lieutenant-Governor ;

(f) \* \* \* \* \*

(g) A covenant by the lessee to refine or have refined in the Territory or in some part of Australia approved for that purpose by the Lieutenant-Governor so much of the crude oil produced from the leased land as the Lieutenant-Governor from time to time directs ;

(h) A covenant by the lessee not to ship or export any crude oil to any place other than Australia without the consent of the Lieutenant-Governor ;

(i) A covenant by the lessee to observe and comply with the provisions of this Ordinance and the regulations thereunder for the time being in force ;

(j) A condition that if the rent or royalty is not paid for six months after it becomes due the Lieutenant-Governor may forfeit the lease ;

Amended by  
8 of 1926, s. 4.

(k) A condition that if the lessee commits any breach of a covenant for which no other penalty is provided the lessee shall in the case of a first breach pay such penalty not exceeding One hundred pounds as the Lieutenant-Governor thinks fit to impose and in case of a further breach or of failure to pay a penalty imposed under this condition that the Lieutenant-Governor may subject to the approval of the Minister forfeit the lease ;

(l) Such other reservations covenants and conditions as are prescribed.

**29A.** In the event of a dispute as to the market value at the bore of crude oil won by a lessee the dispute shall be determined by the Warden sitting in open Court.

Market value of crude oil.  
Cf. N.G.  
*Mineral Oil and Coal Ordinance, 1928, s. 27.*

Added by  
8 of 1929, s. 10.

**30.** A coal lease shall contain such reservations covenants and conditions as may be prescribed.

Reservations, etc., in coal leases.

**31.** The Lieutenant-Governor or an officer thereto authorized by him may give directions to the lessee under a mineral oil lease in regard to the working of the land included in the lease and if the lessee fails within such period as the Lieutenant-Governor allows either to comply with the directions so given or to furnish reasons to the satisfaction of the Lieutenant-Governor for not complying with such directions the Lieutenant-Governor may forfeit such lease.

Power of Lieutenant-Governor to give directions to lessee of mineral oil lease.  
Cf. N.T.  
*Mineral Oil and Coal Ordinance, 1922-1923, s. 30.*

**32.** On giving notice to the Lieutenant-Governor in the prescribed form and upon payment of all rents and other charges due the lessee under a mineral oil lease or coal lease may at any time surrender the lease and the lease shall thereupon determine.

Right of lessee to surrender lease.  
Cf. *Ib.* s. 31.

**33.** (1) Any licensee or lessee under this Ordinance of land which comprises or includes native lands shall before beginning on the native land any operations for the purpose for which the licence or lease is granted or any new operations for the same purpose give notice to a Magistrate or the nearest Warden of the intention to do so and of the nature of the operations and thereupon save as hereinafter provided the Magistrate or Warden shall assess the amount of the damage likely to be done thereby to the surface of the land and shall require the licensee or lessee intending to begin any such operation to deposit in his hands the amount so assessed as aforesaid and until that amount is deposited no such operations shall be carried on either upon or under the land.

Compensation to native owners and occupiers of native lands.  
Cf. Papua No. 4 of 1908, s. 3.

(2) The Magistrate or the Warden shall hold the amount deposited as security to be paid either wholly or in part to the native owners or occupiers if they sustain any damage from injury to the surface of the land or to the improvements thereon and the remainder if any to be returned to the licensee or lessee making the deposit.

(3) The Magistrate or the Warden shall not permit any operations such as in his opinion will cause substantial damage to a native village or to any native lands comprised or included in any licence or lease unless the natives who would be injured thereby give their consent thereto in his presence and then only subject to such conditions as he may approve.

Reservation of  
land from lease  
and licences.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance*,  
1922-1923, s. 32.  
Amended by  
17 of 1925, s. 7.

**34.** (1) The Lieutenant-Governor may by proclamation in the *Gazette* declare that any area specified in the proclamation shall be reserved from leasing and from inclusion in a licence under this Ordinance except as regards leasing the granting of leases in pursuance of the rights of licensees under any licence existing at the date of the proclamation and may by subsequent proclamation revoke or vary such proclamation.

(2) While any proclamation reserving any area from inclusion in a licence is in force no licence under this Ordinance shall be granted in respect of the area specified in the proclamation and any applications for such licences shall during that period be deemed to be suspended.

Amended by  
17 of 1925, s. 7.

(3) While any proclamation reserving any area from leasing is in force no lease under this Ordinance other than a lease in pursuance of a right of a licensee under a licence existing at the date of the proclamation shall be granted in respect of the area or any portion of the area specified in the proclamation and any applications for such leases shall during that period be deemed to be suspended.

Returns.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance*,  
1922-1923, s. 33.

**35.** (1) The lessee under a mineral oil lease shall not later than the fourth day of each month in each year or such other time as is prescribed forward to the Lieutenant-Governor a return in the prescribed form showing the quantity of mineral oil obtained from the land during the last preceding month and the value or estimated value thereof and such other particulars as are prescribed.

(2) If the amount of royalty due is not paid within fourteen days after it is ascertained any officer appointed for that purpose by the Lieutenant-Governor may seize and take possession of and sell on behalf of the Crown any mineral oil obtained from the land.

(3) The proceeds of any sale of mineral oil under this section shall be applied—



- (a) in payment of the necessary expenses in connection with the seizure and sale;
- (b) in payment of the amount of royalty due and the balance (if any) shall be paid to the lessee.

(4) Any owner or manager 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 : Fifty pounds.

**35A.** (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 or lease or the commencement or carrying on of prospecting or mining operations in or under any land the subject of a permit or lease or proposed so to be.

Control of  
prospectus.  
Cf. N.G.  
*Mineral Oil  
and Coal  
Ordinance,*  
1928, s. 35.  
Added by  
8 of 1929, s. 11.

(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 or every person who is named therein as a proposed director or by his agent authorized in writing and also by every promoter and vendor.

(3) It shall not be lawful for any person to 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 Port Moresby;
- (b) On being submitted to the Lieutenant-Governor it shall if so required by the Lieutenant-Governor be accompanied by the report of a geologist approved by the Lieutenant-Governor;
- (c) It 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) It 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 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 transferable until the first bore on the area covered by the permit or comprised in the lease is sunk and completed ;
- (e) It 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) It 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 it 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 ;
- (i) It shall not contain any statement to the effect that the prospectus or the proposals of the permittee or lessee or directors or promoters or any

person proposing to apply for a permit or lease have received the approval or sanction of the Lieutenant-Governor; and

(j) Such other conditions as the Lieutenant-Governor may think 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 Five pounds per day for every day from the date of the prospectus or the day on which the prospectus should have been dated until an approved copy thereof is filed with the Director of Mines Port Moresby.

(5) The Lieutenant-Governor may institute appropriate proceedings for the recovery of the penalty by complaint in accordance with the provisions of 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 he may have by way of forfeiture injunction mandamus damages or otherwise.

(6) The provisions of this section shall be in addition to and not in substitution for the provisions of Sections Sixty-three and Sixty-four of the *Companies Ordinance, 1912-1926*, to be complied with.

**36.** Notwithstanding anything contained in this Ordinance or in any Ordinance relating to the occupation of land in the Territory any unauthorized person who comes or remains within the prescribed distance of any oil-boring plant or any furnace workshop boiler-house condenser or reservoir used in connection with the working of such plant shall be guilty of an offence.

Penalty: One hundred pounds.

**37.** Any person who wilfully and maliciously injures any well sunk for the production of oil or gas any tank intended or used for the storage of oil or gas any line of pipe intended or used for the transportation of oil or gas or any machinery connected with such wells tanks or lines of pipe shall be guilty of an offence.

Penalty: Five hundred pounds or imprisonment for five years or both.



Inspection of  
books.  
Cf. N.T.  
*Mineral Oil  
and Coal  
Ordinance,*  
1922-1923, s. 34.

**38.** (1) The lessee under a mineral oil lease shall keep proper books and accounts in which shall be entered particulars of the receipts and expenditure in connection with the working of the land for mineral oil so that the amount of royalty payable in respect of the mineral oil obtained and also the correctness of any return may be ascertained and shall if required so to do produce such books and accounts to any officer appointed by the Lieutenant-Governor to inspect them.

(2) Any person who impedes or obstructs any such officer in the performance of his duty under this section shall be guilty of an offence.

Penalty: Fifty pounds.

Regulations.  
Cf. *Id.* s. 35.

**39.** 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 the purpose of carrying out or giving effect to this Ordinance and in particular—

- (a) prescribing conditions to be complied with by lessees and licensees;
  - (b) prescribing the mode of registration of leases and licences and of any permitted dealings therewith; and
  - (c) imposing penalties not exceeding Fifty pounds for the breach of any Regulation.
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