

PAPUA.



No. 1 of 1924.

AN ORDINANCE

Relating to Mining for Mineral Oil and Coal.

[RESERVED 8TH DECEMBER, 1923 ;
ASSENTED TO 11TH DECEMBER, 1923.]^(a)

BE 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. Short title.

2. This Ordinance shall commence on the First day of January, One thousand nine hundred and twenty-four. Commencement.

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Parts VI and XIII of *The Mining Act of 1898* (Queensland Adopted) as are inconsistent with this Ordinance are hereby repealed.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— Definitions.

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

(a) Assent notified in *Gazette* No. 2 of 7th January, 1924.

Mineral Oil and Coal Ordinance, 1923.

"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.

"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 one thousand 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 a preferential 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 six hundred

and forty acres, 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 preferential 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 a preferential 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 :

Provided that if a licensee fails within six months after the discovery, to apply for a coal lease in pursuance of this paragraph the preferential 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 preferential 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.

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

6. (1) Any company 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 one thousand square miles, described in the application.

Application for licences to search for mineral oil and coal.
Cf. N.T. *Mineral Oil and Coal Ordinance, 1922-1923, s. 5.*

(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-

Mineral Oil and Coal Ordinance, 1923.

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 applications by lot.

(5) Licences shall be in the prescribed form.

Licence fees.
Cf. N.T.
*Mineral Oil
and Coal
Ordinance,*
1922-1923, 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.

Renewal of
licences.
Cf. *Ib.* s. 7.

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.

(2) The Lieutenant-Governor may accept the application and grant a renewal of the licence for a further period of five years or may refuse the application.

Cancellation
of licence.
Cf. *Ib.* s. 8.

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

(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.

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

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 suffi-

cient to enable such holder to carry out the purposes of the licence.

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. N.T.
*Mineral Oil
and Coal
Ordinance,*
1922-1923. s. 11.

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

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

13. The Lieutenant-Governor may, at his discretion, vary any condition attached to a licence, or extend the time for carrying out any such condition.

Variation of
conditions.
Cf. *Ib.* s. 13.

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

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

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.

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

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.

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

(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.

(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.

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

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: One hundred pounds.

Reports by
licensees.
Cf. *Ib.* s. 18.

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 intervals 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.

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

(3) In the event of a licensee reporting the discovery of mineral oil, or of any indication of the probable 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.

(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.

(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 preferential 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 six hundred and forty acres or a coal lease not exceeding six hundred and forty acres, in respect of land held by such licensee under licence.

(6) The area comprised in a mineral oil lease shall not exceed one hundred and sixty acres.

(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, at the discretion of the Lieutenant-Governor.

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

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

(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.

Licences and leases granted to certain Companies only. Cf. *Ib.* s. 21.

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

(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. *Ib.* 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.

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.

Lessee not to transfer without consent.
Cf. N.T. *Mineral Oil and Coal Ordinance*, 1922-1923, s. 24.

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.

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

(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.

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.

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

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 :

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

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—

Right of licensee or lessee to take timber and water.
Cf. *Ib.* s. 28.

- (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.

Reservations
and covenants
in mineral oil
leases.
Cf. N.T.
*Mineral Oil
and Coal
Ordinance,*
1922-1923, s. 29.

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 :

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 ;

- (e) A covenant by the lessee to work the land to the satisfaction of the Lieutenant-Governor ;
- (f) A covenant by the lessee to fence the land if and when required by the Lieutenant-Governor so to do ;
- (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, all crude oil produced from the leased land, or if required by the Lieutenant-Governor

to have all or any of such crude oil refined at the works of the Commonwealth Oil Refineries Limited ;

- (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 ;
- (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 forfeit the lease ;
- (l) Such other reservations covenants and conditions as are prescribed.

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.

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

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.

(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.

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 preferential 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.

(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 preferential 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.

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.

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

(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.

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.

Prohibition of
approach to oil
boring plant,
etc.
Cf. *Ib.* s. 33A.

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

Injury to oil or
gas wells.
Cf. *Ib.* s. 33B.

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. *Ib.* 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 there-with ; and
- (c) imposing penalties not exceeding Fifty pounds for the breach of any Regulation.

Passed in Council this twentieth day of November, in the year of Our Lord One thousand nine hundred and twenty-three.

Assented to by His Excellency the Governor-General, with the advice of the Executive Council of the Commonwealth of Australia, on the Eleventh day of December, One thousand nine hundred and twenty-three.