

14 GEO. V. No. 26, 1923. *Petroleum Act.*

MINING.

An Act to Make Better Provision for Encouraging and Regulating the Mining for Petroleum and Natural Gas within the State of Queensland.

14 Geo. V.
No. 26.
THE
PETROLEUM
ACT OF 1923.

[ASSENTED TO 12TH NOVEMBER, 1923.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

PART I.—PRELIMINARY.

PART I.—
PRELIMI-
NARY.

1. This Act may be cited as "*The Petroleum Act of 1923*," and shall be read as one with *"*The Mining Acts, 1898 to 1921*," herein collectively referred to as the Mining Acts. Short title.

2. This Act is divided into Parts, as follows :— Parts of Act.

PART I.—PRELIMINARY ;

PART II.—RIGHTS AND POWERS OF THE CROWN ;

PART III.—PROSPECTING PERMITS AND LEASES ;

PART IV.—PROVISIONS RELATING TO PERMITS ;

PART V.—PROVISIONS RELATING TO LEASES ;

PART VI.—PROVISIONS APPLICABLE TO PERMITS
AND LEASES ;

PART VII.—MISCELLANEOUS.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say :— Interpreta-
tion.

"Crown land"—All vacant land of the Crown and all land held under any tenure whatsoever from the Crown in respect of which no grant of the fee-simple has been issued or lawfully contracted to be so issued before the passing of this Act ; Crown land.

"Drilling"—Drilling or boring ; Drilling.

"Lease"—A petroleum lease granted under this Act ; Lease.

"Lessee"—The holder of a petroleum lease ; Lessee.

* 62 Vic. No. 24 and Amending Acts, *supra*, pages 2178 *et seq.*, 6278, 6982, 9237, and 9598.

PART I.—
PRELIMI-
NARY.*Petroleum Act.*

14 GEO. V. No. 26,

Mark the land.	“ Mark the land ”—Mark the land covered by a permit by firmly fixing in the ground a substantial post or monument set in an L trench at each angle or corner ;
Occupier.	“ Occupier ”—The person in actual occupation of any private land or improved land, or, if there is no person in actual occupation, the person entitled to possession thereof ;
Payable.	“ Payable ” as applied to petroleum—petroleum of such quantity and quality that it can under ordinary circumstances be won with profit ;
Permit.	“ Permit ”—A prospecting petroleum permit granted under this Act ;
Permittee.	“ Permittee ”—The holder of a prospecting petroleum permit ;
Person.	“ Person ” includes an individual person, an association of persons, and a company or corporation ;
Petroleum.	“ Petroleum ”—Petroleum and mineral oil occurring in a free state and which may be obtained by drilling or wells ; and natural gas : the term does not include helium occurring in association with petroleum : the term does not include mineral oil which may be extracted from coal, shale, or other rock by some industrial process ;
Petroleum deposits.	“ Petroleum deposits ”—The petroleum-producing or petroleum-bearing sands or strata ;
Prescribed.	“ Prescribed ”—Prescribed by or pursuant to this Act ;
Private land.	“ Private land ”—Land which has been alienated at any time whensoever from the Crown for an estate in fee-simple or which is lawfully contracted to be so alienated ; also, land held under any Act relating to Crown land of which an estate in fee-simple may be acquired by the occupier or any other person immediately or at a future time with or without performance of any conditions : the term does not include a reserve ;
Public Works Land Resumption Act.	“ Public Works Land Resumption Act ”—*“ <i>The Public Works Land Resumption Acts, 1906 to 1917,</i> ” and any Act amending or in substitution for those Acts ;

* 6 Edw. VII. No. 14 and 7 Geo. V. No. 6, *supra*, page 8211 ; and 8 Geo. V. No. 20, *supra*, page 8362.

1923.

*Petroleum Act.*PART I.—
PRELIMI-
NARY.

“This Act”—This Act and all proclamations and regulations issued or made thereunder. This Act.

The terms “Improved land” and “Owner” have the meanings respectively assigned to them by **“The Mining on Private Land Act of 1909,”* and generally, save as hereinbefore provided, the terms used have the meanings respectively assigned to them by the Mining Acts.

4. This Act does not apply to mineral oil which may be extracted from coal, shale, or other rock by some industrial process. Application of Act.

PART II.—RIGHTS AND POWERS OF THE CROWN.

Petroleum is Crown Property.

PART II.—
RIGHTS AND
POWERS OF
THE CROWN.

5. Notwithstanding anything to the contrary contained in any Act or in any grant, instrument of title, or other document, it is hereby declared that petroleum and helium on or below the surface of all land in Queensland, whether alienated in fee-simple or not so alienated from the Crown, and if so alienated whensoever alienated, are and always have been the property of the Crown. Petroleum the property of the Crown.

6. All Crown grants, leases, licenses and other instruments of tenure under any Act relating to Crown land, other than permits and leases under this Act, issued after the passing of this Act— Reservations in Crown grants.

(a) Shall contain a reservation of all petroleum on or below the surface of the land comprised therein, and also a reservation of all rights of access for the purpose of searching for and for the operations of obtaining petroleum in any part of the land, and all rights of way for access and for pipe-lines and other purposes requisite for obtaining and conveying petroleum in the event of petroleum being obtained in any part of the land;

(b) Shall contain a reservation of all helium found in association with petroleum.

7. (1.) The Minister on behalf of the Crown is hereby empowered by his officers, agents, and workmen to carry on the business of searching for, obtaining, refining, and disposing of petroleum and helium and of conducting all operations deemed necessary for those purposes in or upon any land in Queensland. Power to Crown to obtain petroleum.

* 9 Edw. VII. No. 15, *supra*, page 2233.

(2.) For those purposes the Minister may enter upon and occupy, either temporarily or permanently—

- (a) Any vacant Crown land; or
- (b) Save as next hereinafter provided, without making any compensation, any land in the grant or subsisting lease, license, or other instrument of tenure of which from the Crown, whether issued before or after the passing of this Act, petroleum has been reserved or petroleum and helium have been reserved: Provided nevertheless that in such case compensation shall be made for permanent deprivation of the possession of so much of the surface, including any improvements thereon, as is required by the Minister for any purpose except the actual working of the mine and surface rights to and from the mine; or
- (c) Subject to making compensation as hereinafter provided, any land which is private land or is held under subsisting lease or license or other instrument of tenure from the Crown, not being in any case land of the description mentioned in paragraph (b) hereof.

Nothing in this section shall authorise the Minister to enter upon or occupy for the purposes aforesaid any land covered by a subsisting permit or comprised in a subsisting lease under this Act.

Land may
be resumed.

8. The Governor in Council may from time to time, under and subject to the Public Works Land Resumption Act, resume any land which, in the opinion of the Governor in Council, ought to be resumed for the purposes of this Act.

For the purpose of any such proposed resumption he may cause the land to be inspected and reported upon by such officers and workmen as the Minister directs, all of whom may thereupon enter upon the land and carry out all necessary operations.

Upon any such resumption the owner or occupier shall be entitled to compensation, and the amount of such compensation shall be determined in the manner prescribed by the last-mentioned Act:

Provided that in assessing compensation no allowance shall be made for any petroleum or helium known or supposed to be in or under the land resumed.

1923.

*Petroleum Act.*PART III.—
PROSPECT-
ING PERMITS
AND LEASES.

PART III.—PROSPECTING PERMITS AND LEASES.

9. (1.) Subject to this Act—

Permits and
leases.

- (i.) The Minister may issue prospecting permits to any extent in each case not exceeding ten thousand acres to be covered by one permit ; and
- (ii.) The Governor in Council may grant petroleum leases to any extent in each case not exceeding ten thousand acres demised by one lease—

to qualified persons covering or comprising any land within Queensland which is not excluded from permit or lease under Proclamation as hereinafter provided.

(2.) The Governor in Council may from time to time by Proclamation published in the *Gazette* declare and define any area or areas within the State which shall not be open to permit or lease under this Act, and while such Proclamation remains unrevoked it shall not be lawful to grant any permit covering or lease comprising any land situated within any area mentioned in such Proclamation.

Areas may
be excluded
from being
open to
permit or
lease.

10. The persons following shall be qualified to apply for and hold a permit or lease, namely :—

Qualification
of permittees
and lessees.

- (i.) Any person who is a natural-born British subject or is a naturalised British subject whose certificate of naturalisation has been granted not less than three years prior to the date of application for or acquirement of the permit or lease ; or
- (ii.) Any association of any of such persons ; or
- (iii.) Any company or corporation formed and registered within the Commonwealth of Australia all of whose members and shareholders are natural-born or such naturalised British subjects as aforesaid or persons qualified under paragraph (v.) hereof to hold a permit or lease ; or
- (iv.) Any company or corporation formed to acquire and actually carrying on operations in respect of licenses to prospect for petroleum issued before the passing of this Act and subsisting at that date ; or

- (v.) Any person not qualified under paragraph (i.) hereof who has obtained in the prescribed manner a certificate that he is able to read and write from dictation words in such language as the Minister may direct. Regulations may be made under this Act for the examination and granting to such persons of certificates of ability to read and write from dictation words in such language as the Minister may direct and for the exemption from the operation of this provision of any person or class of persons whom for any reason it is not considered necessary to examine to the intent that such persons so exempted may become qualified persons under this section.

Exchange
of existing
licenses for
permits.

11. The Minister shall have power to call in and cancel all licenses to prospect for petroleum issued before the passing of this Act, and the respective licensees thereof shall thereupon become entitled in lieu thereof to grants of permits under this Act, and notwithstanding anything herein contained to the contrary shall be and be deemed to be persons qualified to apply for and hold permits and leases under this Act.

Each such permit shall date as and from the date of cancellation of the license, and shall comprise the area covered by such license, together with any such further area, if available and applied for, as will allow such permit to cover any acreage not exceeding ten thousand acres.

Limit of
permits.

12. (1.) No person shall be entitled to apply for, acquire, or hold more than two permits at any one time.

Limit
of leases.

(2.) No person shall be entitled to apply for, acquire, or hold more than two leases at any one time.

(3.) No company or corporation shall as a shareholder or stockholder of another company or corporation acquire or hold any interest in more than two permits or leases :

Provided that all leases acquired by the original permittee within the area covered by his permit and all subdivisions of such leases shall, for the purposes of this section, be considered as one lease.

1923.

*Petroleum Act.*PART IV.—
PROVISIONS
RELATING TO
PERMITS.

PART IV.—PROVISIONS RELATING TO PERMITS.

Preferent Right to Permit.

13. (1.) A preferent right to a permit may be established under this Act by—

Preferent
right to
permit.

- (a) Erecting on the land desired a post or monument not less than four feet high at some conspicuous place thereon, of such a size as to be visible to anyone interested.

The post or monument may be of iron, stone, or durable wood, not less than four inches square or in diameter, and must be firmly embedded in the ground; and

- (b) Posting on or near the said post or monument a notice stating that an application for a permit will be made within thirty days after the date of posting the said notice.

The notice shall state the day and hour of posting, be signed by the applicant or his duly authorised agent, and give such a general description of the land to be covered by the permit by reference to courses and distances from such post or monument and other natural objects as will reasonably identify the land, and shall state the approximate area that will be applied for.

The notice must be adequately protected from the weather.

- (2.) The preferent right shall exist for thirty days after the date of posting the notice.

If no application for the permit is filed within that time by the person posting the notice, the preferent right shall lapse and the land shall be open to any other application for a permit or for a lease.

Applications for Permits.

14. (1) The application for a permit shall state—

Particulars
of applica-
tion for
permit.

- (a) The applicant's full name, address, and occupation;
(b) That the applicant is a qualified person as hereinbefore provided;
(c) That the applicant is not the holder of more than one other permit;

(d) Full details of all rights, title, and interest which the applicant has or holds (whether directly or indirectly or whether as a shareholder or stockholder of any company or corporation or in any other capacity whatsoever) in any other permits or leases under this Act, disclosing the full nature and extent of every such right, title, and interest.

Qualification.

(2.) In the case of application by an individual person or association of persons, a copy of every certificate of naturalisation (if any), duly certified as such by a commissioner of affidavits or a notary public, shall be annexed to the application.

In the case of an application by a company or corporation, a certified copy of the certificate of its incorporation, together with satisfactory proof that the shareholders and stockholders are qualified as hereinbefore provided, shall be annexed to the application.

Plan.

(3.) The application shall be accompanied by a plan and description locating the land applied for in a reasonably compact form and according to the legal land surveys, if the land has been surveyed; or, if the land is an unsurveyed area, then in an approximately rectangular block the length of which shall not exceed two and a-half times its width.

Lands which are not contiguous may be included in one application where conditions are such that because of any prior disposition a reasonable area of contiguous land is not available.

Where the land is unsurveyed, if deemed necessary a survey more fully identifying the land may be required before the permit is granted.

Preferent right.

(4.) If the applicant claims a preferent right, the facts upon which such right is based and a true copy of the notice posted on the land shall be annexed to the application.

Lodging application.

(5.) The application shall be lodged with the nearest warden, addressed to the Minister, and shall, unless excused by the Minister, be accompanied by three references signed by persons of good repute as to the applicant's business and good financial standing.

The applicant shall pay to the warden, when lodging the application, a sum equal to one penny for every acre of land applied for, which sum if the permit is granted shall be applied in and towards the first year's

1923.

*Petroleum Act.*PART IV.—
PROVISIONS
RELATING TO
PERMITS.

rent, or, if the permit is refused or a lesser area than is applied for is granted under the permit, shall be returned to the applicant wholly or proportionately as the case may require.

(6.) The applicant shall, with the application, furnish a bond in the form prescribed, with a corporate surety or such other surety as the Minister may accept, in a sum of not less than five hundred pounds, containing the prescribed conditions. Bond in respect of permit.

The amount of the bond may be increased by the Minister in all cases where, in his opinion, the circumstances warrant an increase.

In cases where the permit if granted will cover improved land or private land, the Minister may require additional bonds or a bond, with such additional obligations as he thinks proper, as security for the protection of the interests of owners and occupiers of such land.

15. (1.) On receipt of an application, the warden shall hold the application for the thirty days necessary to enable preferent-right claims, if any, to be filed. Period to allow of preferent-right claims.

(2.) At the expiration of such thirty days the warden shall forward to the Minister the application, references, and other prescribed documents, together with his report thereon. Warden to report.

16. On receipt of the application, documents, and report from the warden, the Minister shall deal with the application. Action by Minister.

Prior to dealing with the application he may require such geological information and opinions concerning the land comprised in such application as he deems necessary, and for that purpose may, at the expense of the applicant and the Mines Department equally, obtain reports by geologists or other experts.

The Minister may, in his discretion, refuse any application for a permit, or may approve of the same either in its entirety or in part and on such terms and conditions as the facts appear to him to warrant.

Upon approval by the Minister of the application, or upon its being amended to the satisfaction of the Minister and approved in its amended form, and in the latter case upon the furnishing of the prescribed bond, the Minister may grant a prospecting permit under this Act to such applicant as appears to him to be entitled thereto.

*Permit.*Form of
permit.

17. Every permit shall be in the form prescribed, with such variations as the Minister may in special cases require, and shall confer upon the permittee the exclusive right to prospect for and obtain petroleum, and for no other purpose, upon and under the land covered thereby, for a period of two years or such extended period as may be granted as hereinafter provided, provided that the permittee duly complies with this Act and with the terms and conditions of the permit.

Extension
of permit.

18. If for any good reason the permittee is unable with the exercise of reasonable diligence to test the land within two years, application for an extension for a further period not exceeding two years may be filed within the currency of the permit.

Such application shall be accompanied by satisfactory evidence on oath as to the causes that make such extension necessary and as to what efforts have been made to comply with the conditions of the permit.

The application for extension shall be addressed to the Minister and filed in the office of the nearest warden or with the Under Secretary for Mines in Brisbane.

The Minister may, if satisfied that good reasons have been shown for the extension of the permit, extend the permit for such time not exceeding a further period of two years as he thinks proper and upon such terms and conditions as he thinks proper.

All the provisions of this Act relating to permits shall apply to the permit as so extended, save and except such of them as have already been completely fulfilled by the permittee.

Marking
land.

19. The permittee shall, within ninety days after the date of the permit, mark the land so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the land a notice setting forth that such permit has been granted, and a description of the land and the area covered thereby.

Rent.

20. The permittee shall during the currency of the permit pay by way of rent annually in advance a sum equal to one penny for each acre covered by the permit.

Royalty
before
lease
granted.

21. Until the permittee applies for a lease as hereinafter provided, he shall pay to the Minister

1923.

*Petroleum Act.*PART IV.—
PROVISIONS
RELATING TO
PERMITS.

a sum equal to twenty-five per centum of the gross value of all petroleum secured by him from the land covered by his permit and sold or otherwise disposed of or held by him for sale or other disposition.

After the grant to the permittee of such lease or leases of land covered by the permit, this provision as to royalty shall apply to the remainder of the land covered by the permit for which no lease to him has been granted.

22. The permittee shall within one year from the date of the permit instal upon some portion of the land a substantial and adequate drilling outfit and commence drilling, and shall, within two years from the date of the permit, drill at least one well to a depth of at least two thousand feet, unless payable deposits of petroleum are discovered at lesser depth, or, if the Minister so approves, drill wells in the land to an aggregate depth of at least two thousand feet and so as adequately to prospect the land.

Commence
ment of
drilling.

23. The permittee shall have the right—

Rights to
water, &c.

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

subject, however, to any conditions prescribed with respect to payment for water, timber, or agistment in cases where the making of such payment is deemed necessary.

24. If the permittee determines to drill on any portion of private land or improved land covered by the permit he shall, before commencing such drilling, apply to the nearest warden's court to determine the amount of compensation payable by the permittee in respect of operations during the first year of the period of the permit.

Private
lands—
Compensa-
tion before
commence
ment of
drilling.

PART IV.—
PROVISIONS
RELATING TO
PERMITS.

Petroleum Act.

14 GEO. V. No. 26,

At the end of such first year the warden shall determine what further compensation, if any, should be paid in respect of operations during such first year, and shall also determine the amount of compensation payable for the balance of the period of the permit.

The applicant shall state and describe in such application the area of the surface of private land or improved land required and the purpose for which it is required, and shall give such further information as the warden's court shall require.

Notice to
be given.

Notice of such application shall be given by the warden to the owner or occupier of the private land or improved land, or, if the land is vacant, shall be affixed in some conspicuous place on the land.

Such notice shall state a day upon which the application will be heard.

Expiration
of permit.

25. If a permittee fails to discover petroleum during the period of the permit or any extension thereof the permit shall thereupon terminate.

Cancellation
of permit.

26. The Minister, if he has cause to believe that a permittee has failed to comply or is not making reasonable endeavours to comply with any provisions of this Act relating to permits or with any of the provisions or conditions of the permit, may at any time during the currency thereof order the warden to call upon the permittee to show cause why his permit should not be cancelled.

The warden shall thereupon give at least fourteen days' notice to the permittee or his agent to appear before him and show cause why the permit should not be cancelled, and having heard the matter in open court shall forward the evidence to the Minister, who, if satisfied that it is just to do so, may cancel the permit, and the decision of the Minister in the matter shall be final and without appeal.

Effect of
termination
of permit.

27. Upon the termination of a permit, whether by expiration or cancellation, the land covered thereby shall automatically revert to its original status.

PART V.—
PROVISIONS
RELATING TO
LEASES.

Lease to
permittee.

PART V.—PROVISIONS RELATING TO LEASES.

28. Upon establishing to the satisfaction of the Governor in Council that payable deposits of petroleum have been discovered within the limits of the land covered by any permit, the permittee shall be entitled

1923.

*Petroleum Act.*PART V.—
PROVISIONS
RELATING TO
LEASES.

as of right and the Governor in Council shall grant to the permittee a lease of one-fourth part, to be chosen by the permittee, of the land covered by the permit.

The area so chosen by the permittee shall be in a compact form and, if surveyed, shall be described by the legal land surveys.

If unsurveyed, the area shall be surveyed either by the permittee or by the Minister at the expense of the permittee, and the land leased shall be conformed to and taken in accordance with the legal land surveys.

The permittee shall pay to the Minister such deposits to cover expenses of survey as are deemed sufficient by the Minister for that purpose, and any excess deposits may be repaid to the permittee or person entitled to such repayment.

29. Upon the grant of a lease of a part of the land covered by a permit, the remainder of the land covered by the permit shall remain covered by the permit until the expiration of twelve months from the date of the lease first granted to the permittee, notwithstanding that the term of the permit may have expired, and during such period of twelve months the permittee shall be entitled to a preferent right to a lease of the remainder or any portion of such remainder of the land covered by his permit. Preferent right to further lease.

If after the expiration of such period of twelve months the term of the permit has not expired, so much of the land as has not been acquired under a lease or leases by the permittee shall remain covered by the permit until the termination of the permit.

30. Every permittee or other person applying for a lease or renewal of a lease shall furnish a bond in the form prescribed, and containing the prescribed conditions, with a qualified corporate surety or such other surety as the Minister may accept, in a sum of not less than one thousand pounds. Bond in respect of lease.

31. Every lease shall—

- (a) Be in the form prescribed, with such variations as the Governor in Council may in special cases approve; and Form, &c., of lease.
- (b) Confer upon the lessee the exclusive right to drill for, mine, extract, recover, remove and dispose of all petroleum in or under the land

demised, with the right to construct and maintain thereon all works buildings plant waterways roads pipe-lines reservoirs tanks pumping stations and other structures necessary to the full enjoyment thereof; and

- (c) Be for a period of twenty-one years with a preferent right in the lessee to renew the same for further periods of twenty-one years; subject, however, in the case of any and each renewal, to the laws in force at the date of such renewal relating to the amount and payment of royalties on petroleum and the amount and payment of rent with respect to the land demised.

Royalty
and rent.

32. The lessee shall pay in advance, beginning with the date of the execution of the lease, a rental at the rate of two shillings per acre per annum for and in respect of the first two thousand five hundred acres and at the rate of four shillings per acre per annum in respect of the balance of the land demised, and such payments shall continue to be made annually during the currency of the term.

The lessee shall in addition to such rental pay a royalty equal to twelve and a-half per centum of the gross value of the petroleum produced from the land demised (except petroleum used for production purposes on the said land or unavoidably lost).

Such royalties shall be subject to reduction, to be fixed by regulations under this Act, whenever the average daily production of any petroleum-well shall not exceed ten barrels of thirty-five Imperial gallons per day.

The royalty shall be paid monthly on the tenth day of each month following the month in which the petroleum is produced.

All rents and royalties shall be paid to the warden of the nearest mining district, unless the Minister otherwise directs.

Monthly
statements.

33. The lessee shall furnish monthly statements in detail, in such form as may be prescribed by the Minister, showing the amount, quantity, and approximate value of all petroleum produced and saved during the preceding month as the basis for computing the royalty due.

1923.

*Petroleum Act.*PART V.—
PROVISIONS
RELATING TO
LEASES.

All books and accounts of the lessee shall be open at all times to the inspection of any duly authorised officer of the Minister.

34. (1.) Within three months from the date of the execution of the lease the lessee shall proceed with reasonable diligence to instal (if not already installed) on the land demised a standard or other sufficient outfit and equipment, and shall commence drilling at least one well and shall continue such drilling with reasonable diligence to production or to a point where the well is proved unsuccessful to the satisfaction of the Minister.

The lessee shall thereafter drill and continue drilling with reasonable diligence at least one well at a time to production or to a point where the well is proved unsuccessful to the satisfaction of the Minister until the lessee has drilled such wells equal in number to the number of one-hundred-acre blocks comprised in the land demised, unless the Minister for any reason which he may deem sufficient consents in writing to the drilling of a less number of wells :

Provided that all wells drilled on the land demised in pursuance of a permit shall be taken into account and be and be deemed to be wells to be drilled within the meaning of this condition.

(2.) The lessee shall drill all necessary wells fairly to offset the wells of others on adjoining land on petroleum deposits.

35. The lessee shall furnish annually and at such intervening times as the Minister may require in the manner and form prescribed by the Minister— Plans and reports.

- (i.) A plan showing all development work and improvements on the land demised and other relative information, with a report as to all buildings, structures and other works placed in or upon the land demised ;
- (ii.) A statement as to the amount and grade of petroleum produced and sold during the preceding twelve months or such shorter period as may be prescribed by the Minister and the amount received therefor ;
- (iii.) If the lessee is a company or corporation, a report in detail as to the stockholders or shareholders and debenture-holders or other mortgagees.

Diligence.

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

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

37. With respect to the use and occupation by a lessee of private land or improved land comprised within the land demised, every lessee shall—

- (i.) As against the owner or occupier only of any such land, but not otherwise, be and be deemed to be in occupation of only such area of such land as he from time to time requires for effectively carrying on and adequately protecting all the mining operations and the storing, refining, transporting, and communication works in connection with all the lessee's mining operations carried on or to be carried on from time to time or at any time during the term of the lease or any extension thereof, together with all rights and easements incidental to such occupation ;
- (ii.) During such time have the right by himself, his agents or workmen, to take and divert water from any natural spring, lake, pool, or watercourse situated on or flowing through any such land, and may use such water for any purpose necessary or incidental to the mining operations and to the *bonâ fide* occupation of the land leased ; and may cut and use any timber on any such land for building purposes, construction works, firewood, or other necessary purposes ; and may depasture on such land all stock used in connection with all such mining or other operations or used by workmen or employees of such lessee ; subject however to any conditions prescribed with respect to payment for water timber or agistment in cases where the making of such payment is deemed necessary ;
- (iii.) Cause to be surveyed and securely fenced each surface area on any such land which he requires so as to effectively carry on and adequately protect his mining operations and works.

Survey of
mining area.

1923.

*Petroleum Act.*PART V.—
PROVISIONS
RELATING TO
LEASES.

38. The lessee may, with the consent of the Minister in writing, surrender and terminate the lease upon the payment of all rents royalties and other obligations due and payable to the Crown and upon payment of all wages and moneys due and payable to the workmen employed by the lessee and upon proof satisfactory to the Minister that the public interest will not be impaired, but in no case shall such surrender be effective until the lessee has made full provision for conservation and protection of the property.

Upon the acceptance of such surrender by the Minister the lessee shall be relieved of all future obligations under the lease.

The lessee may with the like consent surrender to the Crown any legal subdivision of the area comprised within the lease.

39. If the lessee fails to comply with the provisions of this Act or makes default in the performance or observance of any of the terms covenants and stipulations of the lease, and such default continues after service of written notice thereof has been given by the Minister to the lessee, then the Minister may institute appropriate proceedings for the forfeiture and cancellation of the lease in accordance with the provisions of the Mining Acts.

But this provision shall not be construed to prevent the exercise by the Minister of any legal or equitable remedy which he might otherwise have.

The waiver of any particular cause of forfeiture shall not prevent the forfeiture and cancellation of the lease for any other cause of forfeiture or for the same cause occurring at any other time.

PART VI.—PROVISIONS APPLICABLE TO PERMITS AND LEASES.

PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

40. Every application for a permit or lease made by an individual person or association of persons must be signed in person by him or by each of them, as the case may be.

Signing of
applica-
tions.

Every application for a permit or lease by a company or corporation must be made by a duly authorised attorney, under power of attorney in that behalf.

PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

Assignment
of lease.

Petroleum Act.

14 GEO. V. No. 26,

41. No permit or lease or any land covered or demised thereby or any interest in such permit, lease, or land shall be directly or indirectly assigned, transferred, sublet, or be made the subject of any trust, except with the consent of the Minister first had and obtained, and any such dealing with such permit, lease, or land made without such consent shall be void.

The Minister may require such information concerning any proposed transfer, assignment, or subletting as he considers necessary or advisable.

The Minister shall not be bound to consent to any such assignment, transfer, or subletting.

A mere right to receive a permit or lease is not assignable.

Forfeiture
of excess
holding.

42. (1.) Any interest in any permit or lease held in violation of this Act shall be forfeited to the Crown by appropriate proceedings instituted by the Minister for that purpose in accordance with the provisions of the Mining Acts :

Provided always that—

- (i.) Any ownership or interest forbidden by this Act which has been acquired as beneficiary under any will or intestacy, or by judgment or decree, may after its acquisition be held for two years (or during the remainder of the currency of the permit or lease, whichever is the shorter period) and not longer ;
- (ii.) Nothing herein contained shall be construed to prevent any number of lessees from combining their several interests, as far as may be necessary, for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines or a tramway or tramways to be operated and used by them jointly in the transportation of petroleum from their several wells or from the wells of other lessees : but any combination for any such purpose shall be subject to the approval of the Minister on application to him in prescribed form for permission to form the same ;
- (iii.) An individual qualified person may hold shares or stock in any number of companies

1923.

*Petroleum Act.*PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

or corporations holding permits or leases, provided that such individual does not hold a controlling interest in any of such companies or corporations.

(2.) If any permit or lease or any land covered or demised thereby—

- (a) Is assigned, transferred, sublet, or made the subject of a trust, except with the consent of the Minister first had and obtained; or
- (b) Is possessed or controlled by any device permanently, temporarily, directly, indirectly, tacitly or in any manner whatsoever so that with the cognisance of the permittee or lessee any such land is in any wise controlled by any combination or is or forms part of the subject of any contract, agreement, or understanding, written, oral, or otherwise, in or for the purpose of the mining or disposal of petroleum with a view to control the price or prices of petroleum; or
- (c) Is held by any person in excess of the area of lands permitted by this Act;

the permit or lease shall be forfeited to the Crown by appropriate proceedings instituted by the Minister for that purpose in accordance with the provisions of the Mining Acts.

43. Every entry upon, occupation of, or interference ^{Trespass.} with any land the subject of any permit or lease shall be deemed a trespass unless such entry, occupation, or interference is authorised by the Minister in pursuance of the powers vested in him under this Act :

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

Every permittee or lessee may proceed in the warden's court for such trespass and for damages in respect thereof.

44. Notwithstanding the grant of a permit ^{Or Reservations} lease, the following rights are expressly reserved to the ^{in favour of} Crown.

Crown and such reservation shall be deemed to be contained in every permit and lease:—

Rights reserved, easements, and rights of way.

(a) The right to grant upon such terms as the Governor in Council thinks just for joint or several use such easements or rights of way through upon or in the land covered by the permit or comprised in the lease as may be necessary or appropriate to the development or working of the same or of other lands containing petroleum deposits, and the treatment and transportation of the products thereof by or under authority of the Government, its lessees or permittees, or for other public purposes; and the Governor in Council may from time to time make such grants accordingly.

Pipe-lines to convey at reasonable rates.

(b) The right to require the permittee or lessee, if he is the owner or operator of any pipe-line or is the owner of a controlling interest in any pipe-line or in any company or corporation operating any pipe-line, which pipe-line may be operated so as to convey as well the petroleum derived from the land covered by the permit or comprised in the lease as other petroleum, to accept and convey at reasonable rates and without discrimination the petroleum of the Government or any other person who is not the owner of any pipe-line.

(c) The right to all helium found in association with petroleum; and the power of the Governor in Council from time to time to make such provisions, by Order in Council, as he deems proper and just with respect to recovery, purification, and utilisation of all such helium.

Rights of way and pipe-line easements.

45. Rights of way through Crown land and private land may be granted by the Governor in Council for pipe-line purposes for the transportation of petroleum to a permittee or lessee to the extent of the ground occupied by the said pipe-line and a distance not exceeding twenty-five feet on either side of the same, under such regulations as to survey, rental, location, application, and use as may be prescribed, and upon the express

1923.

*Petroleum Act.*PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

condition that all such pipe-lines shall be constructed, operated, and maintained as common carriers.

Failure to comply with the provisions of this section or the said regulations shall be a ground for forfeiting any such grant of easement.

46. Every permittee and lessee shall furnish and maintain the prescribed bond conditioned upon compliance with the terms of the permit or lease, as the case may be, and of this Act. Bond.

47. Every permittee and lessee shall keep a log, in the form prescribed by the Minister, of all the wells drilled by him, showing the strata and character of the ground passed through by the drill, which log or a copy thereof shall from time to time be furnished to the Minister upon demand. Logs of wells.

48. A permittee or lessee shall not drill within two hundred feet of any of the outer boundaries of the land covered by the permit or of the land demised, as the case may be, unless the adjoining land is private land and not the subject of any permit or lease under this Act. Restriction on location of drills.

49. Every permittee and lessee shall carry on all his operations in a good and workmanlike manner in accordance with recognised and approved methods and practice to the satisfaction of the Minister and shall take all reasonable precautions to prevent waste of petroleum developed in the land and to prevent the entrance of water through wells drilled by him to the petroleum deposits so to destroy or injure or be likely to destroy or injure any petroleum deposits. Prevention of waste, &c.

Every permittee and lessee shall carry out at his own expense all reasonable requirements directions and orders of the Minister relative to the prevention of waste and the protection and preservation of the land held by him, and neighbouring property, and for the safety, protection, and welfare of workmen, and shall comply with such rules and directions as are issued by the Minister under this Act as to methods of operation.

The Minister is authorised to do any and all things necessary to carry out and accomplish the purposes of this Act in that behalf.

50. Every permittee, unless in any case wholly or partially excused from so doing by the Minister, and. Casing well.

every lessee, shall properly case each well with metal casing in accordance with the best approved methods, landing the casing in the clay or other water-impervious strata or formation immediately underlying the surface water-bearing sands or strata, and also if the well is drilled to a sufficient depth shall land the casing in the clay or other water-impervious strata or formation underlying the petroleum deposits, and shall effectually shut off all water overlying and underlying the petroleum deposits and effectually prevent any water from penetrating such petroleum deposits by process of cementation.

Abandon-
ment of
well.

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

Operations
on private
land or
improved
land.

52. If any of the land covered by a permit or comprised in a lease is private land or improved land, operations under the permit or lease shall be so conducted so as not to interfere with the existing use of such private land or improved land to a greater extent than may be necessary or may be determined by the Minister.

Without derogating from any other provisions of this Act, the permittee or lessee shall reimburse the owner or occupier (as the case may be) of such land for all damage sustained by such owner or occupier to crops and improvements, including permanent artificial water supply, by reason of drilling, prospecting operations, and construction works: such damage shall include reimbursement for occupation of that portion of such land occupied by the permittee or lessee for mining and construction works during the period of such occupation.

In respect of any such land so occupied, the permittee or lessee shall erect such dykes and embankments and take such precautions as may be necessary or required by the Minister to impound any flow of refuse petroleum or salt water from wells drilled, to prevent any injury to lands susceptible to irrigation

1923.

*Petroleum Act.*PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

or the water supply thereof, and shall promptly repair any damage resulting from improper methods of operation or from any of the causes aforesaid.

53. Every permittee and lessee shall duly and punctually comply with this Act and with the requirements, directions, and orders of the Minister given and issued under the terms of the permit or lease, as the case may be. Compliance with Act, &c.

He shall conduct all mining drilling and relative productive operations, subject to the inspection of the Minister.

He shall abide by and conform to regulations in force from time to time covering the matters referred to in the permit or lease, as the case may be: provided that the permittee or lessee shall not be held responsible for delays occasioned by causes beyond his control.

In the event of the permittee or lessee failing or neglecting to carry out the requirements of the Minister, the Minister by his workmen and agents shall have the right to enter on the land and carry out any necessary operations at the permittee's or lessee's expense.

54. The regulations under this Act may provide for and prescribe further provisions and conditions with respect to permits and leases. Regulations may prescribe further provisions.

55. In the event of a permit being duly cancelled or a lease being duly forfeited, the permittee or lessee shall deliver up the land, with all plant and improvements thereon, in good order and condition. Delivery of premises in case of forfeiture.

56. No grant, right, license, permit, tenement, lease, or other authority shall be granted or allowed to search or mine for coal, or for mineral oil which may be extracted from coal shale or other rock by some industrial process, on any part of the lands the subject of a permit or lease under this Act. Right to mine for other minerals.

Mining for gold and other minerals therein or thereon may be allowed on such terms and conditions as the Minister may consider reasonable.

57. During the currency of any permit or lease no person shall drill for water in or on any land the subject of a permit or lease, except upon and subject to such conditions as are imposed by the Minister or by regulations under this Act. Drills for water on lands under permit or lease.

PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

Petroleum Act.

14 GEO. V. No. 26,

Who bound
by terms of
permits and
leases.

58. Each of the obligations and benefits under all permits and leases shall be binding upon and extend to the heirs, executors, administrators, successors, and permitted assigns of the permittee and lessee.

Compensation.

59. (1.) Compensation payable under this Act, whether by the Minister or a permittee or lessee, shall not be payable where the operations of the Minister or permittee or lessee do not comprise any portion of the surface of the land.

(2.) If any doubt exists as to who are the persons entitled to compensation, or if they or any of them cannot be found, the Minister shall be deemed to represent them, and any payment in respect of compensation may be made to the Minister in trust for all persons entitled.

Power to
agree as to
compensation.

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

No such agreement shall be valid unless the same is in writing and signed by the parties thereto or their agents, and filed in the warden's office.

Where no
agreement,
warden to
determine
compensation.

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

Either party shall have the right to require that such plaint shall be heard before the warden sitting with three assessors, and in that case the provisions of the Mining Acts relating to assessors shall be applicable.

Measure of
compensation.

61. (1.) Save as is by this Act otherwise provided, the compensation to be made under this Act shall be compensation for—

- (i.) Deprivation of the possession of the surface or of any part of the surface; and
- (ii.) Damage to the surface or any part thereof, and to any improvements thereon, which may arise from the carrying on of operations by the Minister or the permittee or lessee thereon or thereunder; and
- (iii.) Severance of the land from other land of the owner or occupier; and

1923.

Petroleum Act.

PART VI.—
PROVISIONS
APPLICABLE
TO PERMITS
AND LEASES.

(iv.) Surface rights of way ; and

(v.) All consequential damages :

Provided that in determining the amount of compensation no allowance shall be made for any petroleum known or supposed to be in or under the land.

(2.) In determining the amount of compensation, the warden's court shall take into consideration the amount of any compensation which the owner and occupier or either of them or their predecessors in title have or has already received for or in respect of the damage or loss for which compensation is being determined, and shall deduct the amount already so received from the amount which they or either of them would otherwise be entitled to for such damage.

PART VII.—MISCELLANEOUS.

PART VII.—
MISCEL-
LANEOUS.

62. All applications, statements, representations, information, and reports made under or required by the Minister under this Act shall be verified upon oath or statutory declaration unless otherwise specified by the Minister, and such verification shall be in such form as he may require or as may be prescribed.

All
statements
to be
verified.

63. (1.) In this section the term "prospectus" means and 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.

(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 authorised 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 it shall be submitted to the Minister for approval, and upon being so approved a copy shall be filed with the Minister;
- (b) On being so submitted to the Minister it shall, if so required by the Minister, be accompanied by the report of a geologist approved by the Minister;
- (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 Minister 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 such purchase or proposed purchase, and distinguishing between cash shares and debentures.

Money or consideration to be paid to the promoter shall be clearly and truly set out in such prospectus;

1923.

*Petroleum Act.*PART VII.—
MISCEL-
LANEOUS.

- (f) It shall, if so directed by the Minister, contain such statement relating to the area which the Minister deems to be necessary;
- (g) Without the express consent of the Minister, it shall not contain any statement made in or any extract from any official document prepared by the authority of or furnished to the Governor in Council or Minister or warden or other State officer;
- (h) It shall not contain any statement to the effect that such 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 Minister;
- (i) Such other conditions as the Minister 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 Minister.

(5.) The Minister may institute appropriate proceedings for the recovery of the penalty by complaint in accordance with the provisions of **"The Justices Acts, 1886 to 1909,"* but this provision shall not be construed to prevent the exercise by the Minister or any person aggrieved of any other remedy which he may have by way of forfeiture, injunction, mandamus, damages, or otherwise.

64. Nothing in this Act shall be construed to take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by him by reason of any mining operations carried on pursuant to the Mining Acts upon private land, other than for loss or damage for which compensation is payable under this Act. Other rights of action not affected.

65. (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act, or Regulations.

* 50 Vic. No. 17 and Amending Acts, *supra*, page 1132.

that may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency, and such regulations may fix penalties for breaches thereof.

(2.) All such regulations shall be published in the *Gazette*, and thereupon shall be of the same effect as if they were contained in this Act.

(3.) Such regulations shall be laid before Parliament within fourteen days after such publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(4.) If the Legislative Assembly passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen days after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime.

Repeal.

66. The Acts mentioned in this section, to the extent therein expressed, are hereby repealed :—

Reference to Act.	Subject or Short Title.	Extent of Repeal.
*6 Geo. V. No. 23 ..	" <i>The Petroleum Act of 1915</i> "	The whole except ss. 1 and 9.
†10 Geo. V. No. 27 ..	" <i>The Mining Acts Amendment Act of 1920</i> "	SS. 20 to 23 inclusive.

ORGANISATION OF FRUIT MARKETING.

See PRIMARY PRODUCE.

ORGANISATION, PRIMARY PRODUCERS.

See PRIMARY PRODUCE.

PERPETUAL LEASE SELECTIONS.

See LAND, CROWN.

* *Supra*, page 6983.

† *Supra*, page 9237.