

PETROLEUM.

3° Elizabeth II., No. LXVI.

No. 66 of 1954.

AN ACT to amend the Petroleum Act, 1936-1951.

[Assented to 30th December, 1954.]

BE it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Petroleum Act Amendment Act, 1954.*

Approved
for reprint
14/7/54.

(2) In this Act the Petroleum Act, 1936-1951, Act No. 36 of 1936 as reprinted with amendments to and including Act No. 12 of 1951 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Petroleum Act, 1936-1954.

2. Section four of the principal Act is amended ^{S. 4} amended.
by—

- (a) adding after the word “mark” in the last line of the interpretation “Crown land” the words “and also includes the sea-bed and subsoil of the submarine areas contiguous to the coast of Western Australia and its Dependencies to the extent seawards to which State jurisdiction for the time being extends”;
- (b) substituting for the interpretation “Warden” the following interpretation:—

“Warden” means a person appointed under the provisions of this Act to be a warden and includes a stipendiary, police or resident magistrate to whom a warden may at any time delegate his powers as warden under and for the purposes of this Act.

3. Section seven of the principal Act is amended ^{S. 7} amended.
by—

- (a) substituting for subsection (1) the following:—
 - (1) For the purposes of this Act the Governor may appoint persons to be called wardens who shall have the powers, duties and authorities conferred on them by this Act. ;
- (b) substituting for the word “The” in line one of subsection (2) the word “A”;
- (c) adding after the word “of” in line two of subsection (3) the word “a”.

S. 19
repealed and
re-enacted.

4. Section nineteen of the principal Act is repealed and re-enacted as follows:—

19. (1) A permit to explore, license to prospect or petroleum lease issued or granted under this Act or any share or interest therein shall not be transferred or assigned without the approval of the Minister being first obtained.

(2) A transfer of a permit to explore, license to prospect or petroleum lease is of no effect until it is registered in the manner prescribed.

(3) A transfer or assignment of any right, title, estate or interest in any permit to explore, license to prospect or petroleum lease to any person or corporation, not being a person domiciled within, or a corporation formed and registered within the Commonwealth, as the case may be, shall not be registered unless the Minister is satisfied that there are exceptional reasons which justify the registration.

(4) A permit to explore, license to prospect and petroleum lease issued or granted under this Act and the regulations may subject to this Act and the regulations be mortgaged or otherwise encumbered by the holder or lessee of the permit, license or lease and shall, in the case of a judgment or order of any court being obtained against the holder or lessee, or in the event of the death, bankruptcy or liquidation of the holder or lessee, be subject to law in the same manner and to the same extent as other property of the holder or lessee is subject.

S. 22
amended

5. Section twenty-two of the principal Act is amended by substituting for the words "mineral oil" in the second last line, the word "petroleum".

S. 27
repealed and
re-enacted.

6. Section twenty-seven of the principal Act is repealed and re-enacted as follows:—

27. (1) A holder of a permit to explore or license to prospect or the lessee of a petroleum lease shall not commence any operations on

private land unless or until he has paid or or tendered to the owner and to the occupier of the land the amount of compensation, if any, which he is required to pay under and as ascertained in accordance with this Act or he has made an agreement in writing with the owner or occupier as to the amount, times and mode of payment of the compensation, if any.

(2) Where the owner is dead or cannot be found any payment of compensation may be made to the Minister in trust for the owner.

7. Section twenty-eight of the principal Act is amended by repealing paragraph (a). S. 28 amended.

8. The principal Act is amended by adding the following sections after section twenty-eight:— Ss. 28A-28D added.

28A. (1) Where—

- (a) the holder of a permit to explore;
- (b) the holder of a license to prospect; or
- (c) the lessee of a petroleum lease,

Compensation payable to lessee of pastoral lease for damage to improvements and consequential damage.

has by himself, his agent or employee in the exercise or purported exercise of any of the powers conferred by or under this Act or by reason of any operation conducted or other action taken by him or any of them caused damage to any improvements on land leased for pastoral purposes under the provisions of the Land Act, 1933-1954, he is liable, subject to the provisions of section twenty-eight D of this Act, to pay compensation to the lessee of the land so leased for the damage and for any damage which the lessee may in the opinion of the warden suffer as a consequence of the damage to the improvements.

(2) (a) A person liable to pay compensation to a lessee under the provisions of this section may agree with the lessee as to the amount of compensation including compensation for consequential damage. Compensation may be agreed.

Agreement to be in writing and registered.

(b) An agreement under paragraph (a) of this subsection is not valid unless it is in writing and signed by the parties or their agents and filed in the Department.

In default of agreement action may be taken before warden.

(3) If an agreement is not made under subsection (2) of this section the lessee may commence an action for compensation before the warden or the person liable to pay compensation may so commence an action claiming a declaration as to the amount of compensation payable.

Determination of partial compensation.

28B. In an action under section twenty-eight A of this Act, if the warden considers it impracticable or inexpedient to assess the amount of compensation to be paid in full satisfaction for the damage sustained by the lessee to the improvements and consequential damage, he may on the application of a party or of his own motion give judgment or make a declaration as to the compensation payable in respect of any specified period and in respect of the whole or part of the total claim or compensation.

Security for compensation.

28C. A warden before whom proceedings in relation to compensation have been commenced may, at any stage of those proceedings make an order against the person concerned in them and from whom compensation is sought, from commencing or as the case may be, continuing any operations under this Act until he has given such security as the warden thinks fit for payment of any compensation for which he may be or become liable.

Matters for which compensation not payable

28D. (1) Except where and then only to the extent agreed to by the parties or authorised by the warden compensation is not payable under the provisions of this Act to the lessee of land leased for pastoral purposes under the provisions of the Land Act, 1933-1954—

- (a) for deprivation of the possession of the surface of the land or any part of the surface;
- (b) for damage to the surface of the land;

- (c) where the lessee is deprived of the possession of the surface of any land, for severance of the land from any other land of the lessee;
- (d) for surface rights of way and easements;
- (e) for any diminution of or interference with the right of the lessee to the reasonable comfort and enjoyment or the peaceful and quiet occupation of the homestead or any other structure on or in the land; or
- (f) for any disturbance of cattle, sheep or other stock whatsoever or any damage suffered by the lessee as a consequence of the disturbance.

(2) Compensation is not payable for any gold, minerals or petroleum known or supposed to be on or under the land.

Com-
pen-
sa-
tion
not
pay-
able
for
gold,
min-
erals
or
petro-
leum.

9. Section twenty-nine of the principal Act is repealed.

S. 29
repealed.

10. Subsection (1) of section thirty-eight of the principal Act is amended by adding the following paragraphs:—

S. 38
amended.

- (e) immediately and firstly inform the Minister of the occurrence of any petroleum encountered during the course of any scout drilling on the land in respect of which the permit is issued;
- (f) immediately furnish to the Minister in writing full details of—
 - (i) the composition and physical properties of the petroleum encountered during the course of any scout drilling on the land in respect of which the permit is issued as determined by standard commercial methods and analyses;

- (ii) the nature and extent of the oil bearing formation so encountered and its geological age.

S. 45
amended.

11. Section forty-five of the principal Act is amended by—

- (a) adding after the word “prospect” in line one of subsection (3) the words “granted before the first day of January, one thousand nine hundred and fifty-five”;
- (b) adding a subsection as follows:—

(3a) A license to prospect granted on or after the first day of January, one thousand nine hundred and fifty-five shall remain in force for a period of two years from the date it is issued, but the holder may apply to the Minister for, and the Minister may grant, three renewals of the license for a further period of one year each.

S. 49
amended.

12. Subsection (1) of section forty-nine of the principal Act is amended by adding the following paragraphs:—

- (d) immediately and firstly inform the Minister of the occurrence of any petroleum encountered during the course of any drilling operations on the land in respect of which the license is granted;
- (e) immediately furnish to the Minister in writing full details of—
 - (i) the composition and physical properties of the petroleum encountered during the course of any drilling operations on the land in respect of which the license is granted;
 - (ii) the nature and extent of the oil bearing formation so encountered and its geological age.

13. Section fifty-five of the principal Act is amended by substituting for all words commencing with the word "Where" in the first line of subsection (4) to and including the word "granted" in line three of that subsection the words, "Where the holder of a license to prospect discovers petroleum in the area of land in respect of which the license is granted, if the license is granted on or before the first day of January, one thousand nine hundred and fifty-five".

S. 55
amended.

14. The principal Act is amended by adding the following section after section fifty-five:—

S. 55A
added.

55A. (1) Where the holder of a license to prospect discovers petroleum in the area of land in respect of which the license is granted, if the license is granted after the first day of January, one thousand nine hundred and fifty-five, he is entitled to select within six months of the discovery or within such extended time as the Minister may allow, so much of that area not exceeding one-half as he requires to hold under petroleum lease.

Holder of
license
granted
after 1st
January,
1955, may
acquire
certain area
of land.

(2) The remaining one-half of the area of the land together with any other part of the area which the holder does not require by force of this Act is reserved to Her Majesty to be disposed of in accordance with the provisions of this Act and thereupon the license to prospect granted in respect of the area so reserved shall so far as it relates to the area so reserved forthwith lapse and be of no force and effect.

(3) (a) Where, under the provisions of section seventy-eight B of this Act, the Minister disposes of any land which is reserved pursuant to the provisions of subsection (2) of this section, it shall be disposed of upon such terms and conditions including the title by which the land may be held, as the Governor may determine.

(b) The Minister shall notify in writing the person who held the license to prospect in respect of the land at the time it was so reserved, of the terms and conditions upon which the

land is to be disposed of and that person has the first right to acquire the land or any part of it upon those terms and conditions.

(c) If the person decides to exercise the right granted to him under the provisions of paragraph (b) of this subsection, he shall notify the Minister in writing of his decision within ninety days of the receipt by him of the notice referred to in that paragraph.

S. 56
amended.

15. Subsection (2) of section fifty-six of the principal Act is amended by repealing paragraph (a).

S. 57
repealed.

16. Section fifty-seven of the principal Act is repealed.

S. 58
repealed and
re-enacted.

17. Section fifty-eight of the principal Act is repealed and re-enacted as follows:—

58. The shape of the area of land in respect of which application is made for a petroleum lease shall be that of a rectangle with boundaries in the direction of the meridian and at right angles to the meridian and the length shall not exceed twice the width but if by reason of other boundaries or physical features this shape cannot be observed, the shape shall be as nearly in accordance with the requirements of this section as circumstances permit.

S. 71
amended.

18. Subsection (3) of section seventy-one of the principal Act is amended by substituting for the word "ten" in line four the word "fifteen".

S. 78B
added.

19. The principal Act is amended by adding after section seventy-eight A a section as follows:—

Governor
may create
reserves.

78B. (1) The Governor may from time to time by notice in the *Gazette* reserve to Her Majesty any Crown land defined in the notice.

(2) Where land is reserved under the provisions of subsection (1) of this section or under the provisions of section fifty-five A of this Act, a person shall not apply for or be granted a permit to explore, a license to prospect or a petroleum lease in respect of the land whilst it remains so reserved.

Land reserved is not subject to permit, license or lease.

(3) (a) Land reserved under—

(i) this section; or

(ii) section fifty-five A of this Act and in respect of which land the first right of acquisition granted under subsection

(3) of that section has not been exercised,

Land reserved may be sold by tender or public auction.

may be disposed of by the Minister subject to this Act, by sealed tender or public auction, on such terms and conditions, at such times and such places as he thinks fit.

(b) Notice of the calling of tenders or the holding of an auction under this section, shall be advertised by the Minister once in the *Gazette* and once in a newspaper circulating throughout the State.

(c) Where land is to be disposed of under this section by tender the Minister is not required to accept the highest or any other tender that may be received in respect of the land.

(4) Where land is disposed of under the provisions of this section it ceases to be reserved and the purchaser shall be granted such title to the land under this Act as is approved by the Minister, and the title so granted is subject in all respects to the provisions of this Act and the regulations for the time being in force.

20. Section eighty-two of the principal Act is repealed and re-enacted as follows:—

S. 82 repealed and re-enacted.

82. (1) For the purposes of this Act the Governor may, by Order in Council, establish Warden's Courts at such places as he deems necessary and may assign to a Warden's Court such district as he thinks fit.

(2) A Warden's Court has jurisdiction throughout the whole of the district for the time being assigned to it.

(3) The Governor may from time to time alter or amend the boundaries of any district, abolish any district or re-assign any district from one Warden's Court to another.

S. 83
amended.

21. Section eighty-three of the principal Act is amended by—

- (a) substituting for the word "The" in line one of subsection (1) the word "A";
- (b) adding after the word "for" in line two of subsection (1) the word "every";
- (c) substituting for the words "principal registrar of the department" in lines three and four of subsection (2) the words "clerk of the Warden's Court".

S. 84
amended.

22. Section eighty-four of the principal Act is amended by—

- (a) substituting for the word "The" in line one of subsection (1) the word "A";
- (b) substituting for the words "principal registrar of the department" in line two of subsection (3) the words "clerk of the Warden's Court".

S. 85
amended.

23. Section eighty-five of the principal Act is amended by—

- (a) substituting for the word "The" in line one the word "A";
- (b) adding after the word "arise" in line four the words "in the district assigned to it".

S. 86
amended.

24. Section eighty-six of the principal Act is amended by substituting for the word "the" in line four the word "a".

25. Section eighty-seven of the principal Act is amended by— S. 87 amended.

- (a) substituting for the word “the” where secondly occurring in line one the word “a”;
- (b) substituting for the words “principal registrar of the department” in lines three and four the words “clerk of the Warden’s Court”;
- (c) substituting for the words “principal registrar” in line nine the words “clerk of the Warden’s Court”.

26. Section eighty-eight of the principal Act is amended by— S. 88 amended.

- (a) substituting for the word “the” in line one the word “a”;
- (b) substituting for the words “principal registrar of the department” in lines three and four of the proviso to paragraph (a) the words “clerk of the Warden’s Court”;
- (c) substituting for the words “principal registrar” in line six of the proviso to paragraph (a) the word “clerk”.

27. Section eighty-nine of the principal Act is amended by substituting for the word “the” where first occurring in line two the word “a”. S. 89 amended.

28. Sections ninety, ninety-two and ninety-four of the principal Act are amended by substituting for the word “the” in line one of those sections the word “a”. Ss. 90, 92 and 94 amended.

29. Section ninety-seven of the principal Act is amended by substituting for the words “the court” in line one the words “a Warden’s Court”. S. 97 amended.

S. 98
amended.

30. Section ninety-eight of the principal Act is amended by substituting for the words "the court" in line two the words "a Warden's Court".

S. 99
amended.

31. Section ninety-nine of the principal Act is amended by substituting for the words "the court" in line two the words "a Warden's Court".

S. 100
amended.

32. Section one hundred of the principal Act is amended by substituting for the word "the" in line three the word "a".

Ss. 101 and
104 amended.

33. Sections one hundred and one and one hundred and four of the principal Act are amended by substituting for the word "the" in line one and line two of those sections respectively the word "a".

S. 103
amended.

34. Section one hundred and three of the principal Act is amended by substituting for the words "Under Secretary for Mines" in line five and lines eight and nine the words "clerk of the Warden's Court".

S. 105
amended.

35. Section one hundred and five of the principal Act is amended by substituting for the word "the" in line four the word "a".

S. 108
amended.

36. Subsection (1) of section one hundred and eight of the principal Act is amended by substituting for the words "Under Secretary for Mines" in the last line the words "clerk of the Warden's Court".

S. 113
amended.

37. Paragraph (c) of subsection (1) of section one hundred and thirteen of the principal Act is amended by substituting for the word "the" in lines two and three the word "a".

38. Section one hundred and fourteen of the principal Act is amended by substituting for the word "the" where first occurring in line six the word "a". ^{S. 114}
amended.

39. Section one hundred and fifteen of the principal Act is amended by substituting for the word "the" in the second last line the word "a". ^{S. 115}
amended.
