

## PETROLEUM.

4<sup>o</sup> GEO. VI., No. VIII.

No. 8 of 1940.

### AN ACT to amend the Petroleum Act, 1936.

[Assented to 8th October, 1940.]

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

1. This Act may be cited as the *Petroleum Act Amendment Act*, 1940, and shall be read as one with the Petroleum Act, 1936 (No. 36 of 1936), hereinafter referred to as the principal Act. Short title.

2. The following sections of the principal Act, that is to say, sections eight, fifteen, sixteen, seventeen, eighteen, thirty-seven, forty, forty-three, forty-seven, fifty-one, fifty-two, fifty-three, sixty-seven, and sixty-eight and the Schedule to the principal Act are hereby repealed. Repeal of certain sections and the Schedule.

3. Section three of the principal Act is amended by inserting therein immediately below the words "Division 3, ss. 55 to 78—Petroleum Leases" the words "Division 4, s. 78A—General." Amendment of s. 3.

Amendment  
of s. 4.

4. Section four of the principal Act is amended as follows:—

(a) by inserting, after the definition of “aerial survey” a definition as follows:—

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

(b) by inserting after the definition of “Minister” a definition as follows:—

“Natural gas” means gas obtained from bore holes and consisting primarily of hydrocarbons;

(c) by deleting the whole of the definition of “oil field.”

Amendment  
of s. 19.

5. Section nineteen of the principal Act is amended as follows:—

(a) by inserting therein after the word “every” where it first appears in line one of the section, the words “permit to explore, every”;

(b) by adding at the end of the section a proviso as follows:—

Provided that—

(i) no transfer, sublease, mortgage, encumbrance, or other instrument shall be effectual until it has been registered in the manner prescribed; and

(ii) no transfer or assignment of any right, title, estate, or interest in any permit, license, or lease aforesaid to any person or corporation, not being a person domiciled within, or a corporation formed and registered within, the Commonwealth of Australia, as the case may be, shall be registered unless the Minister is satisfied that there are exceptional reasons which justify such registration.

New section.

6. A section is inserted in the principal Act, after section nineteen, as follows:—

Prohibitions  
against ex-  
ploring, pros-  
pecting and  
mining for  
petroleum.

19A. Subject to the provisions of this Act, no person shall, after the commencement of this section, explore, or prospect, or mine for petroleum except in pursuance and under the authority of a permit

to explore, or a license to prospect, or a petroleum lease, as the case may require, issued under this Act.

7. Section twenty of the principal Act is amended as follows:— Amendment of s. 20.

- (a) by inserting in subsection (1) after the word “any,” where it first appears in line three of the said subsection (1), the words “permit to explore, or any”;
- (b) by inserting in subsection (2) after the word “holder,” in line one of the said subsection (2), the words “of a permit to explore, or”;
- (c) by inserting in subsection (3) after the word “holder,” in line two of the said subsection (3), the words “of the permit, or.”

8. Section twenty-one of the principal Act is amended by inserting therein after the word “any” in line one of the section the word “permit.” Amendment of s. 21.

9. Section twenty-five of the principal Act is amended as follows:— Amendment of s. 25.

- (a) by inserting therein after the word “any,” in line two of the section, the word “permit”;
- (b) by inserting therein after the word “agents,” where it appears the second time in line five of the section, the words “or the permittee or his agents”;
- (c) by inserting therein after the word “licensee” in line seven of the section the words “or permittee.”

10. Section twenty-six of the principal Act is amended as follows:— Amendment of s. 26.

- (a) by inserting therein after the word “pursuant,” in line one, the words “to any permit or”;
- (b) by inserting therein after the word “lease,” in line two, the words “the permittee or”;
- (c) by inserting after the word “subject,” in line five, the words “of the permit, or.”

Amendment  
of s. 27.

11. Section twenty-seven of the principal Act is amended as follows:—

- (a) by inserting therein after the word “No,” in line one, the word “permit”;
- (b) by inserting therein after the word “proposed,” in line two, the word “permittee.”

Amendment  
of s. 28.

12. Section twenty-eight of the principal Act is amended by inserting therein after the word “no,” in line one, the word “permit.”

Amendment  
of s. 30.

13. Section thirty of the principal Act is amended as follows:—

- (a) by inserting in subsection (1) after the word “shall,” in line six of the said subsection, the words “upon registration of a lien under and in accordance with the regulations”;
- (b) by deleting from subsection (1) the words “mining tenement,” in line six of the said subsection, and inserting in lieu thereof the word “lease.”

Amendment  
of s. 32.

14. Section thirty-two of the principal Act is amended by deleting subsection (1) thereof, and inserting in lieu thereof a subsection as follows:—

- (1) Subject to this Act, the Minister may—
  - (a) issue, or cause to be issued, permits to explore, and
  - (b) cancel any permit to explore issued under this Act.

Amendment  
of s. 33.  
Repeal and  
new section.

15. Section thirty-three of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Area of land  
for which  
permit may  
be issued.

33. The area of land for which a permit to explore may be issued shall comprise not less than one thousand square miles.

Amendment  
of s. 34.

16. Section thirty-four of the principal Act is amended by adding at the end of subsection (1) the words “together with a fee of one hundred pounds.”

17. Section thirty-five of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment  
of s. 35.  
Repeal and  
new section.

35. (1) Upon approval of an application for a permit to explore, the applicant shall be notified, and shall, within fourteen days after such notification, deposit with the Under Secretary for Mines, in the prescribed form, a bond of the amount of one thousand pounds, executed by sureties of the prescribed number and who are approved by the Minister as security for the due compliance by the permittee with the conditions of the permit.

Provision  
where appli-  
cation for  
permit  
approved.

(2) Upon lodgment and acceptance of such bond, a permit to explore in the prescribed form signed by the Minister or an officer authorised by the Minister in that behalf shall be issued to the applicant.

(3) A permit to explore shall remain in force for two years from the date of the issue thereof, but the Minister, upon receipt of an application in writing from the holder, may grant renewals of a permit successively for further periods of twelve months each.

(4) The holder of a permit to explore shall be entitled thereunder to the exclusive right to explore for petroleum the area of land specified in the permit.

(5) The holder of a permit to explore may at any time with the consent of the Minister surrender his permit to explore either in respect of the whole or of any part of the area of land mentioned in the permit.

18. Section thirty-six of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment  
of s. 36.  
Repeal and  
new section.

36. There shall not be any limit to the number of permits to explore which may be granted to the same person.

Same person  
may hold  
unlimited  
number of  
permits to  
explore.

19. Section thirty-eight of the principal Act is amended as follows:—

Amendment  
of s. 38.

(a) by deleting from paragraph (a) of subsection (1) the words "oil province," in line four of the said paragraph, and inserting in lieu thereof the words "area of land";

- (b) by deleting from paragraph (b) of subsection (1) the words "oil province," in line two of the said paragraph, and inserting in lieu thereof the words "area of land";
- (c) by deleting paragraph (c) of subsection (1) and inserting in lieu thereof a paragraph as follows:—

(c) carry out survey operations within the area of land specified in the permit to explore to the satisfaction of the Minister continuously during the currency of such permit; and.

Amendment  
of s. 42.

20. Section forty-two of the principal Act is amended by deleting paragraph (a) of subsection (1) and inserting in lieu thereof a paragraph as follows:—

- (a) grant or cause to be granted to the holder of a permit to explore, who has carried out his duties and obligations as such holder under this Act to the satisfaction of the Minister, a license to prospect for petroleum upon an area of land, being portion of the area of land specified in his permit to explore, and to be defined and described in the license;
- (b) by deleting the whole of paragraph (b) of subsection (1) and inserting in lieu thereof a paragraph as follows:—
  - (b) grant or cause to be granted one or more licenses to prospect to the same person in respect of different areas of land at the same time.

Amendment  
of s. 44.

21. Section forty-four of the principal Act is amended by deleting subsection (3) and inserting in lieu thereof a subsection as follows:—

- (3) A license to prospect shall not be granted in respect of an area of—
  - (a) more than two hundred square miles; or
  - (b) except with the approval of the Minister, less than eight square miles.

22. Section forty-five of the principal Act is amended as follows:— Amendment  
of s. 45.

(a) by deleting from subsection (2) the words “the oil province within which,” in line four of the said subsection;

(b) by deleting the whole of subsection (3) and inserting in lieu thereof a subsection as follows:—

(3) Every license to prospect shall remain in force for four years from the date of the issue thereof, but the holder may apply to the Minister for, and the Minister may grant, two renewals thereof for a further period of one year each.

(c) by adding to the section a subsection as follows:—

(4) The holder of a license to prospect may at any time with the consent of the Minister surrender his license to prospect either in respect of the whole or of any part of the area of land mentioned in the license.

23. Section forty-six of the principal Act is amended by deleting therefrom the words “in an oil province,” in line four of the section. Amendment  
of s. 46.

24. Section forty-eight of the principal Act is repealed and a section is inserted in lieu thereof as follows:— Amendment  
of s. 48.  
Repeal and  
new section.

48. The fee to be paid for and in respect of a license to prospect shall, in respect of the first year of the currency of the license, be five shillings for every square mile of the area of land specified in the license, with a maximum fee of twelve pounds ten shillings, and in respect of every subsequent year of the currency of the license, be ten shillings for every square mile aforesaid per annum, with a maximum fee of twenty-five pounds per annum. Fees for  
license to  
prospect.

25. Section fifty-five of the principal Act is amended as follows:— Amendment  
of s. 55.

(a) by deleting from subsection (1) the words “within an oil field,” in line three of the said subsection;

(b) by inserting in subsection (1) after the word "any," in line five, the words "person not domiciled within or to any";

(c) by deleting subsection (2) and inserting in lieu thereof a subsection as follows:—

(2) A petroleum lease shall not be granted in respect of any area of—

(a) more than one hundred square miles;  
or

(b) unless approved by the Minister, less than four square miles.

Provided that, in the event of the first discovery of payable petroleum in the State being made by a licensee of a license to prospect existing at the time of the commencement of this proviso in the name of such licensee, such licensee upon such discovery shall have the right to apply for and be granted a petroleum lease not exceeding the whole of the area of land mentioned in his license to prospect.

Amendment  
of s. 56.

26. Section fifty-six of the principal Act is amended by inserting in subsection (1) after the word "prescribed," in line four of the said subsection, the words "rent and."

Amendment  
of s. 58.  
Repeal and  
new section.

27. Section fifty-eight of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Shape of  
land in  
petroleum  
lease.

58. The shape of the area of land in respect of which application is made for a petroleum lease shall, as nearly as circumstances permit, be that of a rectangle; but, when, owing to the position of the boundaries of adjoining leases, or by reason of natural features, rectangular areas of land are not available, intervening or irregularly shaped areas of land may be applied for.

Amendment  
of s. 59.

28. Section fifty-nine of the principal Act is amended by deleting from subsection (1) the words "a renewal of such term for a further term," in line four of the said subsection, and inserting in lieu thereof the words "renewals of such term for successive further terms."



29. Section sixty of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment  
of s. 60.  
Repeal and  
new section.

60. The rent payable for a petroleum lease shall be calculated at the rate of ten pounds per annum for every square mile or portion of a square mile of the area of land comprised in the lease, and such annual rent shall be payable in advance at the beginning of each year of the currency of the lease.

Rent of  
lease.

30. A section is inserted in the principal Act after section sixty, as follows:—

New section.

60A. The lessee of a petroleum lease shall, within one month after publication of the notice of approval in the *Government Gazette*, deposit with the Under Secretary for Mines, in the prescribed form, a bond of the amount of one thousand pounds, executed by sureties of the prescribed number who are approved by the Minister, as security for the due compliance by the lessee with the conditions of the lease.

Lessee to  
furnish bond

31. Section sixty-one of the principal Act is amended by inserting therein after the word "notice," in line four, the words "and compliance by the applicant with the provisions of section sixty A of this Act."

Amendment  
of s. 61.

32. Section sixty-three of the principal Act is amended by deleting paragraph (c) of subsection (1) and inserting in lieu thereof a paragraph as follows:—

Amendment  
of s. 63.

(c) a covenant by the lessee to pay in respect of petroleum produced or obtained from the land royalty as assessed under and in accordance with the provisions of section seventy-one of this Act.

33. Section seventy-one of the principal Act is repealed and a section is inserted in lieu thereof as follows:—

Amendment  
of s. 71.  
Repeal and  
new section.

71. (1) Subject to the provisions of this section, the lessee of a petroleum lease shall pay to the Crown royalty computed at the rate specified in the lease on the gross value of all crude petroleum, casinghead petroleum spirit, and natural gas produced or obtained from the land comprised in the lease.

Royalties.

For the purposes of this subsection, the gross value of the products mentioned therein respectively shall be such gross value as from time to time at intervals of not less than twelve months is mutually agreed upon by the Minister and the lessee, or, in default of such agreement, is determined by reference to arbitration under the provisions of the Arbitration Act, 1895.

(2) Such royalty shall not be payable in respect of—

- (a) casinghead petroleum spirit or natural gas, which is unavoidably lost or is returned to the natural reservoir;
- (b) crude petroleum, casinghead petroleum spirit, or natural gas, which is used by the lessee for the purposes of mining operations as approved by the Minister;
- (c) any natural gas or product thereof which is not sold.

(3) The rate of royalty to be specified in the lease shall be fixed by the Minister at the time of granting the lease, and shall not be less than five per centum or more than ten per centum of the gross value determined as aforesaid of the product in relation to which the royalty is to be payable.

(4) There shall be set off against the amount of royalty payable in any year under this section the amount of any rent paid by the lessee under the lease in respect of that year; and, where the amount of rent so paid exceeds the amount of royalty so payable, no royalty shall be payable in that year.

Amendment  
of s. 72.

34. Section seventy-two of the principal Act is amended by deleting the words "obtained from such lease," in line five, and inserting in lieu thereof the words "casinghead petroleum spirit and natural gas obtained from such lease and sold."

Amendment  
of s. 73.

35. Section seventy-three of the principal Act is amended by deleting the word "petroleum" in the last line of the section and inserting in lieu thereof the word "products."

36. Section seventy-four of the principal Act is amended by deleting the word "petroleum," where it appears in lines one and five, and inserting in lieu thereof in each case the word "products."

Amendment  
of s. 74.

37. A Division is added to Part IV. of the principal Act after section seventy-eight, as follows:—

New division.

*Division 4—General.*

78A. (1) Every licensee and lessee shall maintain all apparatus and appliances and all wells capable of producing petroleum on the land comprised in his license or lease in good repair and condition and shall execute all mining operations on the land in a proper and workmanlike manner, in accordance with methods and practice customarily used in good oil field practice, and, particularly, shall take all practical steps in order—

Special obligations of licensees and lessees.

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

(2) Every licensee and lessee shall comply with any directions from time to time given to him in writing by the Minister relating to any of the matters mentioned in subsection (1) hereof.

38. Section seventy-nine of the principal Act is amended as follows:—

Amendment  
of s. 79.

- (a) by inserting therein after the word "any" where it appears a third time in line one the words "permit to explore, or in";
- (b) by inserting therein after the word "such" in line three the word "permit."

Amendment  
of s. 81.

39. Section eighty-one of the principal Act is amended by inserting therein after the word "interest," in line one, the words "in a permit to explore or."

Amendment  
of s. 85.

40. Section eighty-five of the principal Act is amended as follows:—

- (a) by deleting therefrom the words "in any oil province," in lines three and four, of the section;
- (b) by inserting in paragraph (a) after the word "of," in line two of such paragraph, the words "permits to explore";
- (c) by inserting in paragraph (b) after the word "in," in line two of such paragraph, the words "permits to explore";
- (d) by inserting in paragraph (c) after the word "comprised," in line two of such paragraph, the words "in permits to explore, or";
- (e) by adding at the end of paragraph (d) the words "or permits to explore";
- (f) by adding at the end of paragraph (e) the words "or permits to explore";
- (g) by adding at the end of paragraph (f) the words "and permits to explore";
- (h) by inserting in paragraph (g) after the word "prospect," in line two of such paragraph, the words "and permits to explore."

Amendment  
of s. 118.

41. Section one hundred and thirteen of the principal Act is amended as follows:—

- (a) by inserting in paragraph (a) of subsection (1) after the word "in," in line four of the said paragraph (a) the words "a permit to explore, or";
- (b) by inserting in paragraph (a) of subsection (1) after the word "holder," in line five of the said paragraph (a) the words, "of a permit to explore, or";
- (c) by inserting in paragraph (c) of subsection (1) after the word "subject," in line six of the said paragraph (c), the words "of a permit to explore, or."

42. Section one hundred and fifteen of the principal Act is amended by inserting therein after the word "subject," in lines one and two, the words "of a permit to explore, or."

Amendment  
of s. 115.

43. Section one hundred and sixteen of the principal Act is amended as follows:—

Amendment  
of s. 116.

- (a) by inserting in paragraph (a) after the word "prospect," in line four of the said paragraph (a), the words "or permit to explore";
- (b) by inserting in paragraph (b) after the word "prospect," in line three of the said paragraph (b), the words "or permits to explore."
- (c) by inserting in paragraph (d) after the word "prospect," in line three of the said paragraph (d), the words "or permits to explore";
- (d) by inserting in paragraph (e) after the word "prospect," where it appears in line three and also in lines eight and nine of the said paragraph (e), the words "or permit to explore";
- (e) by inserting in paragraph (f) after the word "prospect," in line two of the said paragraph (f), the words "or permit to explore";
- (f) by inserting in paragraph (l) after the word "licensees," in line two of the said paragraph (l), the words "and permittees";
- (g) by adding at the end of paragraph (p) the words "or permits to explore";
- (h) by inserting in paragraph (q) after the word "prospect," in line three of the said paragraph (q), the words "or in permits to explore."

44. The principal Act as amended by this Act may be cited as the Petroleum Act, 1936-1940.

Citation of  
principal Act  
as amended.