

CHAPTER 199.

PETROLEUM (PRODUCTION).

ARRANGEMENT OF SECTIONS.

SECTION.

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CHAPTER 199.

PETROLEUM (PRODUCTION).

An Ordinance to vest in the Crown the property in petroleum and natural gas within the Colony and to make provision with respect to the search for and getting of petroleum and natural gas, and for purposes connected with the matters aforesaid. 41 of 1939.

[18TH NOVEMBER, 1939].

1. This Ordinance may be cited as the Petroleum (Production) Ordinance. Short title.

2. (1) The property in petroleum existing in its natural condition in strata in the Colony is hereby vested in Her Majesty, and Her Majesty shall have the exclusive right of searching for and getting such petroleum. Vesting of property in petroleum in Her Majesty.

(2) For the purpose of this Ordinance the expression "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

(3) In this Ordinance references to a person having the right to search for petroleum shall include the right to make a geological and geophysical examination of land and to bore the same, and references to the getting of petroleum shall include references to the working, carrying away, storing, treating and converting of petroleum.

Licences to search for and get petroleum.

3. (1) The Governor in Council may, on behalf of Her Majesty, grant to such persons as he shall think fit, licences to search for and get petroleum.

(2) Any such licence shall be granted for such consideration (whether by way of royalty or otherwise) as the Governor in Council may determine, and upon such other terms and conditions as the Governor in Council shall think fit.

(3) The Commissioner of Lands and Mines shall, as soon as may be after a licence has been granted under this section, cause a notice of the fact to be published in the Gazette stating the name of the licensee and the situation of the area in respect of which the licence has been granted.

Power to make regulations.

4. (1) The Governor in Council shall, before granting any licence under this Ordinance, make regulations prescribing—

(a) the manner in which, and the persons by whom, applications for licences under this Ordinance may be made;

(b) the fees to be paid on any such application;

(c) the conditions as to the size and shape of areas in respect of which licences may be granted;

(d) model clauses which shall, unless the Governor in Council thinks fit to modify or exclude them in any particular case, be incorporated in any such licence;

and different regulations may be made for different kinds of licences. Such regulations shall be laid before the Legislative Council within fourteen days next after they are made if the Council is then sitting, or if not, within fourteen days after the commencement of the next ensuing session, and if within the next subsequent twenty-one days a resolution is passed by the Legislative Council that the regulations or any of them be annulled, they shall be thereby annulled; and the regulations so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any action in the meantime taken under them.

(2) The Governor in Council shall prescribe the royalties to be paid on the products won in mining operations under this Ordinance.

5. (1) Where any facility, right or privilege is required in order that petroleum may be properly and conveniently searched for and got by any person to whom a licence under section 3 has been granted (hereinafter referred to as "the licensee") and the proper and efficient searching for and getting of the petroleum is unduly hampered by the inability or failure of the licensee to obtain such right, facility or privilege (hereinafter referred to as "an ancillary right"), such ancillary right may be conferred on the licensee in the manner and subject to the provisions hereinafter appearing.

Power to grant ancillary rights for facilitating the search for and getting of petroleum.

(2) In particular, but without prejudice to the generality of the foregoing provision, such ancillary rights shall include—

(a) a right to enter upon land and to search for and get petroleum;

(b) a right to use and occupy land for the erection of such buildings, the laying and maintenance of such pipes, and the construction of such other works as may be required for the purpose of searching for and getting petroleum;

(c) a right to obtain a supply of water or other substances in connection with the search for or getting of petroleum;

(d) a right to dispose of water or other liquid matter obtained while searching for or getting petroleum.

(3) An ancillary right may be granted to a licensee either at the time a licence under section 3 is granted to him or at any subsequent time.

6. An ancillary right shall not be granted under this Ordinance unless it is shown that it is not reasonably practicable to obtain the right in question by private arrangement for any of the following reasons—

Limitation on power of granting rights.

(a) that the persons with power to grant the right are numerous or have conflicting interests;

(b) that the persons with power to grant the right, or any of them, cannot be ascertained or cannot be found;

(c) that the persons from whom the right must be obtained, or any of them, have not the necessary powers of disposition, whether by reason of defect of title, legal disability or otherwise;

(d) that the person with power to grant the right unreasonably refuses to grant it or, after reasonable consideration has been offered, demands terms which, having regard to the circumstances, are unreasonable.

Power to
appoint
Commis-
sioners.

7. (1) For the purpose of determining any question relating to applications for ancillary rights under this Ordinance the Governor shall appoint a Commission consisting of three persons (hereinafter referred to as "the Commissioners") which shall have jurisdiction to inquire into and determine the same. When appointing Commissioners the Governor shall have regard to the fact that one at least of the Commissioners shall have knowledge and experience of land conditions in the Colony. If at any time any Commissioner is for any reason unable to perform the duties of his office the Governor may appoint another person to serve in his place and such temporary appointment may be either for a fixed period or for an indefinite period.

(2) One of the persons appointed shall be a judge of the Supreme Court and he shall be chairman of the Commission.

(3) Each Commissioner shall be appointed for a period of five years.

Cap. 59.

(4) The provisions of sections 5, 6, 9, 10, 11, 12, 13, 14 and 16 of the Commissions of Enquiry Ordinance shall, *mutatis mutandis*, apply to the conduct of any proceedings before the Commissioners.

(5) No Commissioner shall take any part, save as an interested party appearing before the Commission, in the proceedings of the Commission in any application in which he has any direct or indirect personal interest.

(6) There may be paid to any Commissioner, from moneys to be provided by the Legislative Council, such remuneration as the Governor in Council shall determine.

Applications
for rights.

8. (1) Any applicant for a licence, or any licensee, who is desirous of obtaining an ancillary right and who considers that the circumstances are such that such an ancillary right can be granted may send to the Commissioner of Lands and Mines an application for the grant of such a right. Such application shall be made in duplicate.

(2) An application under this section shall set forth the circumstances alleged to justify the grant of the right, and shall be in such form, and accompanied by such information verified in such manner, as the Commissioner of Lands and Mines may direct.

(3) The Commissioner of Lands and Mines shall consider the application and, if it appears to be in order, he shall—

(a) file one copy in his office;

(b) transmit the other copy to the chairman of the Commission; and

(c) cause to be published in the Gazette and in two local daily newspapers a notice stating the name of the applicant, the nature of the right claimed and a sufficient description of the area in which it is desired to exercise the right.

9. (1) The Commissioners, if satisfied that the requirements of this Ordinance have been complied with in the case of the applicant and that it is expedient in the interest of the Colony that the right applied for should be granted to him, may, by order, grant the right on such terms and subject to such conditions, and for such period as the Commissioners may think fit, and upon such an order being made the right specified in the order shall, subject to the provisions hereinafter contained, vest in the applicant.

Consideration of applications by Commissioners.

(2) In determining whether to grant any right for which application has been made or what terms and conditions, if any, shall be imposed upon the grant of such a right, the Commissioners shall have regard, among other considerations, to the effect on the amenities of the locality of the proposed use and occupation of the land in respect of which the application is made.

10. (1) Where an application for the grant of a right is granted the Commissioners shall, in default of agreement, determine the amount of compensation that shall be paid by the applicant in respect of the acquisition of the right and the persons to whom it is to be paid, either at the time when the application is granted or at any subsequent time.

Provisions as to compensation.

(2) The compensation to be paid in respect of any right shall be assessed by the Commissioners on the basis of what would be fair and reasonable between a willing grantor and a willing grantee, having regard to the conditions subject to which the right is or is to be granted, and after that amount is assessed the Commissioners shall make an additional allowance of not less than twenty-five *per centum* on account of the acquisition of the right being compulsory.

(3) The Commissioners may impose as a condition on the grant of any right that any compensation payable in respect thereof shall be paid or, with the consent of the person to whom payment is to be made, that security to the satisfaction of the Commissioners for the payment thereof shall be given before the right is commenced to be exercised.

(4) Where the person to whom any compensation is payable cannot be found or ascertained the compensation shall be paid into the registry of the Supreme Court.

Costs of application.

11. The costs incurred by the applicant in connection with the application shall not be ordered to be paid by any person from whom a right is sought to be obtained; and the costs so incurred by each such person shall, unless the Commissioners are satisfied that an unconditional offer in writing was made by the applicant to that person of a sum as compensation equal to or greater than the amount of any compensation awarded to him by the Commissioners, be ordered to be paid by the applicant.

Effect of grant of right.

12. An ancillary right granted under this Ordinance shall not confer on the person to whom it is granted any greater or other power than if the right had been granted by a person with power to grant the right or relieve the grantee from any obligation or liability to which he would have been subject had the right been granted by such a person.

Appeals to the Full Court.

13. (1) An appeal in respect of any amount on any question of law or of fact shall lie from any order made by the Commissioners to the Full Court of the Supreme Court of British Guiana.

(2) The provisions of Order XLIII of the Rules of Court, 1900, as amended from time to time, shall, *mutatis mutandis*, be applicable to all such appeals.

(3) The decision of the Full Court shall be final.

Savings.

14. (1) Nothing in this Ordinance shall be construed as conferring, or as enabling the Commissioners to confer, on any person, whether acting on behalf of Her Majesty or not, any right which he does not enjoy apart from this Ordinance to enter on or interfere with land.

(2) Nothing in this Ordinance shall be construed as imposing any liability on any person where in the course of mining or other lawful operations petroleum is set free.
