

23061

C0533/443

KENYA

23061

A.A.A.

MINING ORDINANCE

Previous

3033/33

Subsequent

38174/35

R. 297

8/1/55

R. 297

23061

1 copy to Library.

1. Governor Byrnes 22 \_\_\_\_\_ 9<sup>th</sup> January 34.  
Trans. in dup. authenticated copy of the Mining Ordinance  
1933, No. 61.

Shew to Library &

2. Col. Secretary 3 pm \_\_\_\_\_ 11<sup>th</sup> January 34.  
Trans. 12 printed copies of Ordinance No. 61 of 1933 together  
with four copies of Report of Committee on Mining Legislation.

The Governor has furnished a spare copy of the original 1931 Ordinance with all the amendments which this Consolidating Ordinance will make clearly indicated thereon. This is most useful and in due course we might send a semi-official note to Mr. Moore congratulating him on the clear manner in which the amendments have been indicated.

The following points may be noted:-

(1) Section 7(L) (formerly Section 13) is still in the same form as was provided by the Mining Amendment Ordinance of 1932. In No. 5 on 30/3/33 the Secretary of State noted that Section 5 of the ~~amending Ordinance~~ <sup>this section is amended provided</sup> provided for the delegation to a Provincial Commissioner of the authority of the Native Lands Trust Board to consent in writing to prospecting within a Native Reserve; and said he had no doubt that the conditions to be stipulated in the permit would continue to be a matter for the Board and that they would prescribe the conditions upon which authority was delegated to the Provincial Commissioner; and he assumed that they would be competent to request the Governor to terminate the delegation of their authority if necessary.

copy to Library.

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Trans. in dupl. authenticated copy of the Mining Ordinance  
1933, No. 61.

Shaw's Library

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The following points may be noted:-

(1) Section 7(D) (formerly Section 13) is still in the same form as was provided by the Mining Amendment Ordinance of 1932. In No. 5 on 3033/33 the Secretary of State noted that ~~Section 6~~ <sup>this section is amended provided</sup> of the amending Ordinance provided for the delegation to a Provincial Commissioner of the authority of the Native Lands Trust Board to consent in writing to prospecting within a Native Reserve; and said he had no doubt that the conditions to be stipulated in the permit would continue to be a matter for the Board and that they would prescribe the conditions upon which authority was delegated to the Provincial Commissioner; and he assumed that they would be competent to request the Governor to terminate the delegation of their authority if necessary.

We have had no assurance that the Secretary of State's assumption was correct, but no doubt it was.

(2) No.30 on 3033/33 is a semi-official letter to Mr. Moore suggesting a basis for taxing the mining industry. The present Ordinance affects royalties only in so far as section 12 provides that all minerals obtained in the course of prospecting shall be liable to such royalties as may be prescribed; and in that section 101(r) provides that the Governor in Council may make regulations in connection with the rates of royalties to be paid, the method of calculation of the amount of such royalties and the manner and time of payment thereof. The Committee on Mining Legislation say in para.14 of their report (enclosure to No.2 on this file),

"A tax on profits or on output appear (sic) to be the only alternatives to a flat rate, which might restrict production from low grade ores. It appeared to us that the the recommendations from England (i.e. those contained in No.30 on 3033/33) in favour of a flat rate increasing with the premium on gold were possibly based on the false premises that gold mining in this Colony had benefited from the enhanced premium, whereas in point of fact, practically all mining operations in Kenya commenced when gold had already reached Sh.120. The majority of the Committee therefore recommended that the proposals of Mr. Murray Hughes should be adopted."

The Governor does not mention the matter in his

despatch

*x*  
This is of course  
sheer nonsense folly on the  
part of the Committee. If the  
price of gold goes up they will  
benefit.

*J.*

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"A tax on profits or on output appear (sic) to be the only alternatives to a flat rate, which might restrict production from low grade ores. It appeared to us that the the recommendations from England (i.e. those contained in No.30 on 3033/33) in favour of a flat rate increasing with the premium on gold were possibly based on the false premises that gold mining in this Colony had benefited from the enhanced premium, whereas in point of fact, practically all mining operations in Kenya commenced when gold had already reached Sh.120. The majority of the Committee therefore recommended that the proposals of Mr. Murray Hughes should be adopted."

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despatch. Perhaps he intends to deal with it in a further despatch which he will write on the regulations which will have to be made under section 101(r). We might ask about this:

X

(3). In 22(a) on 3006/33 a semi-official letter was sent to Mr. Moore containing <sup>comments</sup> ~~copies~~ of the 1931 Bill by Sir John Campbell, which might come in useful if such a Consolidating Ordinance as the present one were introduced. I attach opposite a note upon the way in which these criticisms of Sir John Campbell have been met. ~~The~~ <sup>in most cases the position was</sup> ~~not result~~ seems quite satisfactory.

X 2a

~~Before non-disallowance is signified the Legal Advisers should see:~~

~~2. It will not be necessary to consult General Department, the Ministry of Mines, or the Imperial Institute.~~

(4). Section 9) has been amended to as to make the penalty for interfering with mining a fine not exceeding £300 or imprisonment for a term not exceeding 3 years.

from 3006/33

(5). The Mining in Proclaimed Areas Ordinance seems to be still left in force. The sections of the present Ordinance which are affected by it are ss. 1) & 19.

? Or will not be nec: to consult G.D., the Mines Dept, or the Imperial Institute about this  
? Subject to <sup>Sir Campbell's</sup> legal <sup>signify non-die</sup> <sup>sanction</sup> observe as at X above.  
Also write S/O as at Y above

Two copies: 16 Feb

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X 2a

criticisms of Sir John Campbell have been met. ~~The 2~~ <sup>in or cases the position was</sup> ~~not result~~ seems quite satisfactory.

~~Before non-disallowance is signified the Legal Advisers should see:~~

? ~~It will not be necessary to consult General Department, the Ministry of Mines, or the Imperial Institution~~

(4). Section 97 has been amended to as to make the penalty for interfering with mining a fine not exceeding £500 or imprisonment for a term not exceeding 3 years.

36m 3006/33

(5). The Mining in Proclaimed Areas Ord<sup>n</sup> seems to be still left in force. The sections of the present Ordinance which are affected by it are ss. 1) & 14.

? It will not be need to consult G.D., the Mines Dept, or the Imperial Institution about this?  
? Subject to <sup>surveys</sup> ~~legal~~ <sup>signify non-die</sup> ~~obtain~~ <sup>sanction</sup> in share drafts observing as at X above.  
Also write s/o as at Y above

T.W. Davis: 16 Feb

On points of detail:-

(a) In Section 14(6) the reference to "claims" is an inadvertent survival from the terminology of the previous Ordinances and should be deleted.

(b) Section 51 reproduces Section 56 of the previous Ordinance but eliminates "land occupied by a native village or by a market or burial ground" from the categories of land in which the lessee may not mine. This change might conceivably be fastened on by critics as an infringement of native rights. The answer would be that ex hypothesi there would be no native village or market on land set apart or excluded from the reserve for a lease - they would have been removed and the occupiers compensated before the lease was signed. Burial grounds are not used by the Kavirondo and in any case they are excluded from prospecting and mining by Section 7(a).

(c) Section 91 as printed would apparently permit of the worst evils of the "truck" system. I suspect that "and" in line 6 is a misprint for "for" but it is an unfortunate error and should be corrected without delay even if a special Ordinance is necessary.

(d) The Morris Carter Commission wrote as follows:-

"Under the original ordinance of 1925 export of gold from a claim was prohibited and therefore, as soon as a claim had been proved, it would have been necessary for the holder to take out a lease before he could export. But under the present ordinance there is no such restriction, and everything can be done on a mining claim which could be done on a mining

lease

lease. Although it is issued only for a year, it is renewable at will, provided that the conditions are observed. There is therefore no inducement to take out a lease unless it is desired to obtain security for the purpose of raising capital.

A provision that no mining should be allowed off a claim might tend to cramp development by preventing the holder from raising working capital; or else it would lead to a multitude of applications for mining leases on land which might ultimately prove worthless. The natives are compensated for disturbance, ... Nevertheless it cannot be said that the natives like the situation, and for the general security it is advisable that such arrangements should be of short duration. We suggest that mining off a claim should be limited to a reasonable period, after which the claim should either be surrendered or a lease should be taken out".

Section 27 of the Ordinance permits "mining" to be carried out by the holder of a location or exclusive prospecting licence; but Section 30 limits the validity of a location to five years in all and Section 17(5) sets a similar period to the validity of an exclusive prospecting licence.

We suggested to Mr. Logan yesterday that in view of the Morris Carter recommendation (which was not of course before Govt. when this Ordinance was under consideration) five years was rather too long. He disagreed, on the ground that reasonable time must be allowed for prospecting and development before leases are applied for. At any rate the five year limit is better than none at all and I think we can accept it.

Generally speaking the Ordinance is a great improvement on its predecessors. Native interests are in no way impaired, the provisions as to compensation for surface disturbance etc. being practically unchanged. On the technical side I doubt the necessity of referring to any outside authority; the main structure of the Ordinance remains

much

When opportunity occurs, the need to press this. It does not seem to matter. *AGB*

Also the new § 51 falls within 100 yards of a market or burial ground - so it is within reserve

I doubt if it is a misprint of "and" becomes "for" in comma after "advances" should be "and" *AGB*

X  
It's not too long for the large areas covered by e.g. Kenya Constitution or Tanganyika Commission. *AGB*

much as it was when the Imperial Institute approved the original Tanganyika draft in 1930 and the changes have all been made in the light of local experience. It may be anticipated that when final decisions have been reached on the Morris Carter Commission's report some amendments to this Ordinance may be necessary but there is no point in anticipating those at the moment.

? Subject to legal obsons, signify non-disallowance, drawing attention to the points suggested under (a) and (c) above.

It is a little disturbing to find from the report of the Committee on Mining Legislation (2nd enclosure to Ho.2) that local opinion is definitely against the acceptance of the scale of increased royalties suggested by the Kenya Gold Concessions Committee here. The majority prefer the adoption of Mr. Murray Hughes's proposals which envisage a maximum royalty of 5% scaled down to 2½%; and the minority (3 unofficals) suggest that no royalty should be charged for a period of at least twenty years.

This question of royalty can hardly ~~be~~ <sup>fair</sup> to be of great political even if not of financial importance; and it would be unfortunate if the Governor prejudiced the case by issuing amended regulations based on the Committee's Report, without reference to the Secretary of State. Mr. Logan appeared to think such a possibility quite likely and I suggest that no harm would be done by the telegram as in the draft herewith.

*C. H. ...*

*They were left in 2 mistakes. See amendments copy. A.G.H.*

5  
There is an error in § 34, where the words 'or the' have crept in between 'former' & 'holder'. Otherwise I have nothing to add to Mr. Freestone's comments.

As regards royalty, the minerals belong to the Crown which has every right to charge royalty, and 5% is by no means excessive. To say that it is scaring away capital - as the committee do - is utter moonshine. To argue that we here were guided by 'false premises' because gold had risen in price before it was found in Kenya is silly. If the Kenya Mines Association really think 5% is too heavy a burden it only shows that they think they can fool the Government. I shall be surprised if the Gov. does reduce the scale but he might so I think the telegram should go. We can then consider later & send a despatch.

§ 91 is odd. I expect Mr. Freestone's view is right & that it is intended to cover goods ordered on a "chit" signed or thumb-marked by the employee. If the wording is meant to be as it stands it will have to be altered.

J. E. W. Flood  
23.2.

3 To Gov. Tel. No. 44 — 23/II/34

Apart from the three marginal comments above and a few on Mr. Davies' note (2a), the only comment I have to make on the Ordinance is that "Section 24" in Section 76 should apparently read "Section 23". As regards "Y" in Mr. Davies' minute, I fully appreciate the manner in which this Ordinance has been submitted. I would, however, point out that the credit for this should go to the Attorney-General and/or his Department, and, more-  
*largely*  
that this is probably the result of our

many reminders about the Circular despatch of the 6th of November, 1930. Strictly speaking, the last sentence of the despatch, which requests that annotated spare copies should be furnished, does not apply to consolidating legislation, but I believe the new Colonial Regulation on the subject will do so. In all the circumstances I am not sure that it is necessary to say anything on this point.

*R. S. S. 2.3.34.*

P.S. It is true that *of our Colonies* are so helpful, despite the circular, *through* matters are improving, and I am quite prepared to write to the *Kamari*, if that should be the appropriate course as it is thought that a word of appreciation should be said to Kenya.

*R. S. S.*

We might have a dft. for *comin* prepared signifying *n-d-n* and drawing attention to the several minor points.

I would not say anything about royalties for the present

*R. S. S.*  
3/3.

M. Davies

I think we can have a draft now if you would please prepare one

*R. S. S.*  
3.3.

Sir John Campbell

Sir C. Bottonley

You haven't seen this yet but I think you should.

It is a revision and consideration: the only points seeming to call for comment are those set out in the foregoing minutes.

I am afraid of § 91. No doubt it is all right and no doubt the local natives would prefer to work on a barter basis, but if any of the opponents of Kenya spot it, there will be a squall in Parliament. So, it is as well if the S. of S. is able to say that he has already noticed it, assumes that it is a misprint, and has directed the Gov's attention to the need for alteration.

*R. S. S.*

63

*1/3/34*

Sir J. Moffey.

I do not think you need trouble about the Ordinance generally, but you should see Mr. Hood's point about § 91.

It may well be to the employees' advantage to have Bureau necessities, which the employer may be able to obtain cheaply in bulk, as part of his wages. No one, so far as I know, has ever complained of a coal miner in this country receiving free coal.

*But*

X  
That would be best, I think.

But I agree that we should  
mention the point.

W.C.S.

7.3.34

At the

*[Signature]*  
7.3.34

~~Mr. Robert Dray~~ ~~init~~ ~~to you~~  
as to the P.S.  
to you ~~min~~ ~~of 2/3/34~~

To Kenya, 186 (1 answer) 12 MAR 1934

~~Regy (Regal)~~ to note (4)  
~~P.D. may wish to see~~  
~~Regy. (Cater)~~

mins. on No. 1 -  
Index as to Royalties  
& Mr. Gault to  
note

See  
adj.

- 5. Govt. Notice No 67  
The Mining Ordinance 1931
  - 6. Govt. Notice No 110  
The Mining Ordinance 1933
  - 7. Govt. Notice 118.  
The Mining Ordinance 1933 - date of  
coming into force 6 Feb 1934
- No. 5. The Mining (Safety) Regulations are at  
No. 9 on 18145/32 Kenya. In No. 7 on 3033/33 the  
Governor asked for advice on the question of  
preventing cyanide pollution of rivers from gold  
mining operations. We consulted the Imperial  
Institute and their reply is No. 10 on 3033. A  
good many of the Institute's suggestions (those  
which I have marked with a pencil tick) seem to have  
been embodied in the present amending Regulations.

? There is no need to send a copy to the  
Imperial Institute, and the papers may be put by.

No. 6. These are the new General Regulations  
issued under the Mining Ordinance of 1933 which was  
sanctioned in No. 4 on this file. The Regulations  
which they superseded will be found at No. 8 on  
18145/32. The introduction of locations etc.,  
have caused many alterations to be made.

Regulation 40 (1) (a) which deals with  
royalties should be noted. It runs "On gold:  
a royalty of 5 per cent on the gross sum realised  
from the gold won". This is practically the same  
wording as that of Regulation 6 (1) (a) of the  
1932 Regulations. Thus, neither the suggestions  
of the Kenya Gold Concessions Committee here nor those  
of the Committee on Mining Legislation in the  
Colony have been adopted. The majority of the  
latter Committee recommended a maximum royalty of  
5 per cent scaled down to 2½ per cent whilst the minor-  
ity recommended no royalties at all. No. 3 on this  
file was designed to stop the Governor issuing  
Regulations with regard to royalties without  
prior reference to the Secretary of State. It  
has failed to do so (the Regulations came into  
force on the 1st of March) but we shall doubtless  
hear in answer to No. 3 in due course, and in any case  
the royalty has not been reduced below 5 per cent  
as was feared might be done. As the Ordinance was  
not sent to any outside body for advice or informa-  
tion I presume it will not be necessary to send the  
Regulations.

The Regy. was  
made on Feb. 6<sup>th</sup>; the  
let. was sent on Feb.  
25<sup>th</sup>. *[Signature]*

? Put by till a reply comes to No. 3.

*[Signature]*

No. 7. ? Put by.

W.Davis: 20 Nov

Two points in No. 6 deserve attention :-  
A. Part III of the new Regulations, which deals with  
"Locations" refers throughout to "claims".  
(A gold location is, in fact, a block of not  
more than 10 claims). The use of the term

new Ordinance; and, although a 'claim' is incidentally described in 12(i) and 13(ii) of these Regulations, it is nowhere expressly defined. Presumably the Commission is satisfied that this absence of a legal definition will not give rise to practical difficulties.

B. Royalties on gold are ~~now~~ <sup>still</sup> fixed at 5% (S. 40(1)); but the provision for remitting half the rate to the small man (6(1) c of the previous Reg<sup>s</sup>) has been disappeared. The Advisory Ctee attached some importance to this relief, and it would I think be a mistake to overlook this alteration.

No 3 on this file calls for no reply. ? Sir Cecil Bottomley might write to Mr. Floor, in continuation of his letter of Oct. 24<sup>th</sup> 1933, saying that we have noticed that the new Reg<sup>s</sup> take no account of the suggestion for a sliding scale of royalties made in that letter, and that the 5% refund has been dropped. And ask for views.

*S. S. S.*  
22/3.

Sir J. Campbell

Kenya has evidently decided to go in for "no change" rather than evoke controversy either by reducing or raising the scale of royalty. If conditions were at all stabilized on the goldfield so that we could know what sort of mining there would be and how its costs & yield compared with, say, the bold coast, I would urge that Govt. should attempt to get hold of some of the "gold premium". But things are still in the future so it is perhaps premature to take any steps and we can leave it to the Governor for the time being.

But a letter as suggested can do no harm and will show that we are not overlooking the point.

As regards the small man perhaps his reduction has been removed as an alternative to putting up the royalty all round.

S. S. S.  
22-3-34

There is one major point I am not quite clear about, and it seems important. Section 101 of the new Ordinance empowers the G in Council to make regulations in connexion with the rates of royalty to be paid to Government. He has exercised that power, and fixed the royalty for gold at five per cent-----etc. The point is:--can he, from time to time, alter the royalty?--on the wording as it stands. This is a matter which may be of very great importance; large interests may be involved; and the operating Cos: might contest some subsequent modification if the legal position were not quite clear. One need not elaborate the argument: the point is I think obvious; and current practice shows that 5% is unquestionably a low royalty rate for gold. (I drew attention the other day to the new Indian <sup>State</sup> rates--which run much higher. We have also a good deal of information as

para 4. of No 30 on  
30 3/33

30 on 3033/33

to this on record).

2. In India, I remember that this important matter was dealt with by a general interpretation Act. The position may of course have altered since then; but my strong recollection is that, to put all such questions beyond doubt, we took general powers of interpretation:-- a rule making power could be exercised from time to time: previous rules could be altered and modified; the appointing authority had the power of dismissal; and so on. It occurs to me, therefore, that if this was considered necessary in India, the thing--as it stands--may not be free from doubt? I suggest that the Legal Adviser be consulted.

The gold committee, my recollection is, considered it important that there should be no absolute fixation at the present time; there should be the possibility of changing the royalty rates, if circumstances dictated such a course.

3. Otherwise, I agree with the minutes above.  
The 23-3-34.

*Handwritten signature*  
23/3/34

*Mr. Duncan*

*Will you please advise on Sir J. Campbell's query as to the Governor in Council's right to alter the regulations?  
From § 9 of the Interpretation Ordinance it would seem clear that the right exists, except that regulations are not therein*

*Therein mentioned as a purpose.  
"Notices" or, if these Regulations are issued under "Notices".*

*There is no doubt that under the old Mining Ordinance in Council did in fact vary re. Regulations which they had made].*

*WCS 24.3.34*

Sir C. Bottomley.

*In view of the provisions of section 9 of the Interpretation and General Clauses Ordinance (Cap. 1), to which I draw attention, it is clear that the Governor in Council can at any time amend, vary, rescind, or revoke any of the Regulations which he has made under section 101 of the Mining Ordinance 1933. There being nothing in that Ordinance to show a contrary intention.*

*It is true that "regulations" are not mentioned so nomine in section 9, but "rules" are, and under section 2(32) "rules" include "regulations".*

*Then please drop for my eye on the sliding scale part as in last question papers*

*28/3/34*

*H. Duncan.*

*WCS 28/3/34*

*(10)*

Draft for conson. herewith.

It may be relevant to record here that the Secretary of State wrote to Sir John Maffey on the 26th of February as follows:-

"I got everything done in Kenya that was important including a visit to Kakamega. I also saw and satisfied Robert Williams about future mining legislation; and he will now take up his big concession if he is satisfied on technical grounds".

J. P. [Signature] 29/3

To H. M. M. Moore \_\_\_\_\_ cons <sup>2/6</sup> <sub>3</sub> as had

To R. S. Harragin 2/10 5/4/34

10 H. M. M. Moore (S.O) (Am. Min.) \_\_\_\_\_ 15/11/34

Gives explanation why new Mining Regs. do not provide for remission of half the royalty rate to the small producers & also why sliding scale has been rejected.

10A To Gov. tel N° 126 \_\_\_\_\_ 14 May, 1934 on 22034/34 Kenya

11. Gov. .... 217. .... 26th April, 1934. Explains ~~XXXXXX~~ why reference to claims in section 14(6) of the Mining Ordce, 1933 was made.

12. Govt Notice N° 35 of 1933

13. Extracts from The Times

14. Extract from letter from S. of S. to S. of S. Bygone dated 11 June 34.

By air parcel 3/4/33  
Mr. Roberts - to say  
As to the P.S. to you  
of 12.3.34  
Enter No. 1 in  
Main action as noted  
at No. 4  
Should be kept behind 22052/34  
Some have 1/19.

15. A/Ed Secretary 3pm (omnibus) \_\_\_\_\_ 27 Oct. 34.

Shaw's Library. Trans. 12 copies of report of Select Committee of Leg. Council on a Bill to amend the Mining Ordnce 1933.

We can await the Ordinance

P. S. [Signature]

J. P. [Signature] 29/11/34

in reply  
29/11/34

16. Govt Notice No 4250/1934.

17. Govt Notice No 2025/1934

(right in accordance with minute of 19 July on 22044/34)

P. S. [Signature] 10/11/34  
C. P. [Signature] 10/11/34  
force

18. Governor Bygone 6/24 \_\_\_\_\_ 5 December 34

Sends a dupl. authenticated copy of the Mining (Amend) Ordnce No 4250/1934

Dupl. 18  
taken for copy  
on 22052/34  
17/6/34

19. A/Ed Secretary 5/4. \_\_\_\_\_ 4 December 34

Sends 12 printed copies of Ordnce No 4250/1934.

10 copies to Library

The dupl. of No 18 has been registered on 1762/1/35 Seal (Women's Compensation) & it will be convenient if I write on to CE-13 - not file.

J. P. [Signature] 24/1.

Apart from Clause 13. the only clause which

Which

1. Calls for comment is 3, which prevents any person who holds a prospecting right from being issued with another by reason of his applying in some other capacity. This seems a reasonable measure. The comparative table gives no clue to similar legislation elsewhere.

The amendments suggested in Note on this file have been made. See Clauses 7.9 & 14. The reference to "claims" in Section 14 (b) of the Principal Ordinance is satisfactorily explained in No 11 on the file.

Subject to Equalization & the Order of General Dept with regard to Clause 13

Pancton G.  
C. J. W. H. H.  
22/1/35

The amended § 91 is now quite clear; and the addition of (c) to § 13(1) is an improvement.

As proposed?  
S. J. W. H. H.  
24/1

Do legal items.

To Robert [unclear]  
13/2

Signify and but  
say a deep is coming as  
regards workmen's compensation  
see 4762/35

J. S. W. H. H.  
13

2:0 To Kemp, 130 (18 amended) 14 FEB 1935

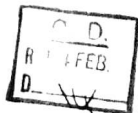
Noted.  
A. C. W.  
A. H. W.  
16/2/35  
DM

Let [unclear] [unclear]

23061/34  
Kenna  
12

C. O.

Mr. *Spornich* 137351  
Mr. *Freestone* luf.  
Mr.



1935

Mr. Parkinson.  
Sir G. Tomlinson  
Sir C. Bottomley  
Sir J. Shuckburgh  
Permt. U.S. of S  
Parly. U.S. of S  
Secretary of State

DRAFT.

*Kenna*  
*No 130*  
*for.*

18

*Copy to all  
on 17/6/35  
General.*

FURTHER ACTION.

*V. Winick  
on 17/6/35*

Sir,  
I have etc to acknowledge the receipt of your despatch No 624 of the 5<sup>th</sup> of December and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of Ordinance No 43 of 1934 entitled

'The Ordinance to amend the Training Ordinance, 1933.'

As regards Section 13 of the Ord<sup>n</sup>,

2. I hope to address

you shortly in the near future with regard to the ~~amendment of Section 13 of the Ordinance.~~

I have etc.  
on the subject of  
Workmen's Compensation

19 B



THE SECRETARIAT,  
NAIROBI.

KENYA.  
DECEMBER, 1934.

WHEN REPLYING  
PLEASE QUOTE  
No S C/MIN.1/1/13.  
AND DATE

RE  
C. O. REGY

The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No. 624 of the 5th December, has the honour to transmit twelve printed copies of Ordinance No. XLIII of 1934, entitled An Ordinance to Amend the Mining Ordinance, 1933.



Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF  
HIS MAJESTY KING GEORGE V.  
JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,  
*Governor.*

Assented to in His Majesty's  
name this 30<sup>th</sup> day of November,  
1934.

J. BYRNE.

*Governor.*

AN ORDINANCE TO AMEND THE MINING  
ORDINANCE, 1933

**ORDINANCE No. XLIII of 1934**

**An Ordinance to Amend the Mining Ordinance,  
1933.**

ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof as follows:

1. This Ordinance may be cited as the Mining (Amendment) Ordinance, 1934, and shall be read as one with the Mining Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

Short title  
No. 61 of 1934

2. Section 2 of the Principal Ordinance is hereby amended by the addition after the definition of "non-precious minerals" of the following definition:

Amendment  
of section 2  
of the  
Principal  
Ordinance

"officer of the Mines Department means an officer appointed under section 9 of this Ordinance;

3. Sub-section (1) of section 13 of the Principal Ordinance is hereby amended by the substitution of a semi-colon for the full-stop at the end of paragraph (b) thereof and by the addition thereafter of the following paragraph:

Amendment of  
section 13 (1)  
of the  
Principal  
Ordinance

"(c) to any person to whom there has previously been issued either in his own name or as agent for any individual, syndicate, partnership or company a prospecting right which has not been surrendered or cancelled and which is in all other respects still valid."

4. Paragraph (3) of section 14 of the Principal Ordinance is hereby repealed and the following substituted therefor:

Repeal and  
replacement  
of section  
14 (3) of the  
Principal  
Ordinance

"(3) make excavations, sink shafts or wells, drive adits or levels or dig trenches."

Repeal and replacement of section 19 of the Principal Ordinance.

Rights under an exclusive prospecting licence.

5. Section 19 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

"19. (1) The holder of an exclusive prospecting licence shall, upon the lands within the area of such prospecting licence and during the currency of such licence, have the following rights:—

- (a) the sole right of prospecting;
  - (b) the sole right of alluvial mining if he has obtained the consent thereto of the Commissioner and has paid such fee in respect thereof as the Commissioner shall have required. The amount of such fee shall in no case be in excess of a rate of two shillings in respect of every 10,000 square feet of land; and
  - (c) the sole right of pegging locations.
- (2) The holder of an exclusive prospecting licence may for the purposes set out in the last preceding sub-section—
- (a) enter upon the land within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
  - (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
  - (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant, and construct such ways as may be necessary for or in connection with his prospecting operations."

Amendment of section 31 of the Principal Ordinance.

6. Section 31 of the Principal Ordinance is hereby amended by the insertion after the word "have" in the first line thereof of the following words:—

"in respect of such location all rights conferred on the holder of a prospecting right and shall have".

Amendment of section 36 of the Principal Ordinance.

7. Section 36 of the Principal Ordinance is hereby amended by the deletion of the words "or the" which occur between the words "former" and "holder" in the ninth line thereof.

8. Section 45 of the Principal Ordinance is hereby amended by the deletion of the words "at that time be liable to be forfeited" which occur in the third and fourth lines thereof, and the substitution therefor of the words "prior to such expiration have become liable to forfeiture".

Amendment of section 45 of the Principal Ordinance.

9. Section 76 of the Principal Ordinance is hereby amended by the substitution of the figures "23" for the figures "24" which occur in the fourth line thereof.

Amendment of section 76 of the Principal Ordinance.

10. Section 80 of the Principal Ordinance is hereby amended in the following respects:—

Amendment of section 80 of the Principal Ordinance.

(a) by the insertion therein next after paragraph (v) of the following additional paragraph numbered as (vi):—

"(vi) examine and make inquiry into any accident occurring in respect of any prospecting or mining activity and may lay information before a magistrate and apply for a summons or other legal process against any person in connection therewith."

(b) by the renumbering of paragraph (vi) therein as paragraph (vii).

11. Section 84 of the Principal Ordinance is hereby amended and shall be read as if the word "four" which occurs in the third line thereof were deleted and the word "three" substituted therefor.

Amendment of section 84 of the Principal Ordinance.

12. Section 85 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 85 of the Principal Ordinance.

"85. (1) Every person in charge of mining or prospecting operations shall, as soon as practicable after the occurrence of any accident in connection with mining or prospecting operations causing or resulting in loss of life, or injury to any person causing temporary or permanent, partial or total incapacity, report in writing the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident a magistrate of the first or second class shall hold an inquiry into the cause thereof.

(3) The magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of

21  
No. 4  
D. 2306/34

books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the magistrate, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by a magistrate shall, subject to any order made by such magistrate, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct."

13. Section 86 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

86. (1) Save as is provided in sub-section (6) of this section, compensation, the amount of which shall be assessed by the magistrate, shall be payable by any lessee, holder of a location, licence or right in respect of any personal injury caused to any person employed by such lessee, holder of a location, licence or right by any accident arising out of and in the course of his employment where by such person has become temporarily or permanently, partially or totally incapacitated, or has met his death :

Provided that no compensation shall be payable under this section in respect of an injury to a person which was due to his own serious and wilful misconduct. For the purposes of this section the expression 'serious and wilful misconduct' shall include drunkenness, wilful contravention of any law or regulation made for the purpose of ensuring the safety of or preventing accidents to persons, or any other act or omission which the magistrate, having regard to all the circumstances of an accident causing injury, may declare to be serious and wilful misconduct..

Repeal and replacement of section 86 of the Principal Ordinance. Compensation on death of or injury to employees.

(2) The amount of compensation so assessed shall not exceed—

(a) in the case of death or total or permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

(b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured. To whom compensation to be paid.

(4) Where such compensation is to be paid in respect of death it shall be paid—

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

(5) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court. Appeals.

(6) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was— Persons excluded from compensation.

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

- (c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;
- (d) paid a wage or salary in respect of his work by the month at a rate exceeding eight hundred and thirty-three shillings and cents thirty-three per month;
- (e) paid a wage or salary in respect of his work by the year at a rate exceeding ten thousand shillings:

Provided that the daily, weekly, monthly or yearly pay of such person shall be calculated exclusive of pay for overtime."

14. Section 91 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

"91. (1) All wages due to any person employed by the holder of a prospecting right or on any location, lease or exclusive prospecting licence area shall be paid to such person in cash when due and in no case later than seven days thereafter.

(2) No deduction whatsoever shall be made from such wages save only in respect of—

- (a) repayment of cash advances made to the employee by the employer,
- (b) payments for goods ordered by the employee for his personal use and supplied to him by the employer on the location, lease or exclusive prospecting licence area."

Passed in the Legislative Council the twenty-fifth day of October, in the year of Our Lord one thousand nine hundred and thirty-four.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.



21 DEC 1934

C. O. REGD 54

DECEMBER, 1934.

Sir,

With reference to your telegram No. 252 of the 20th October, 1934, and previous correspondence, I have the honour to transmit two authenticated copies of an Ordinance entitled An Ordinance to Amend the Mining Ordinance, 1933, which passed its third reading in the Legislative Council on the 25th day of October, 1934, and was assented to in His Majesty's name on the 30th November, 1934, together with the Legal Report in duplicate prepared by the Attorney General.

Twelve printed copies of the Ordinance will be sent to you under separate cover.

2. You will observe from the Legal Report that all the amendments proposed by you have been incorporated in this Ordinance.

3. I trust that His Majesty will not be advised to exercise his powers of disallowance in respect of this Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL,  
GOVERNOR.

THE RIGHT HONOURABLE,  
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W.1.

## LEGAL REPORT

## THE MINING (AMENDMENT) BILL, 1954.

This Bill effects a number of minor amendments to the Principal Ordinance mainly at the instance of the Secretary of State. The most important amendments are Clause 3 which prevents any person who holds a prospecting right from being issued with another by reason of his applying in some new capacity; and Clause 15 which provides for payment of compensation in respect of death or injury in mining accidents. As the law stands at present, compensation in the case of death or injury is only payable when the victim is a native. Clause 15 of the Bill provides that compensation for death or injury shall be paid to any employee by any accident arising out of and in the course of his employment, provided that no compensation shall be payable when serious and wilful misconduct is proved. Further, the amount of compensation is limited to £750 or 5 years salary (whichever the is the less) in the case of death or permanent incapacity, and to £350 or eighteen months' salary (whichever is the less) in other cases. It is further provided that where a person is injured compensation shall be payable to him personally, but where a person is killed, then, if he is a non-native, compensation shall be paid to his legal representative, and, if he is a native, compensation shall be payable to the District Commissioner of the district, in which the accident occurred, for his dependants. A person dissatisfied with an award of a magistrate may appeal to the Supreme Court, and, finally, certain persons are excluded from obtaining compensation, that is, persons with an income, roughly speaking, of a sum exceeding £500 a year. Section 86 of the Mining Ordinance, 1953.

<sup>now</sup>  
 as it/stands embodies all the suggestions made by the  
 Secretary of State in his telegram of the 20th October,  
 1954, on the subject.

30202/6/54  
*General*

The last Clause of the Bill remodels Section 91  
 71762/1/55 *in line.* of the Principal Ordinance in order to remove any  
 possibility of a contravention of the spirit of Truck  
 Acts.

In my opinion, His Excellency the Governor  
 may properly assent to this Bill in the name and on  
 behalf of His Majesty.

Nairobi,

*W. H. ...*  
 ATTORNEY GENERAL.

25th October, 1954.

THE MINING (AMENDMENT) BILL, 1934

COMPARATIVE TABLE

Clause of the Bill.	Remarks.
1.	Short title.
2.	New.
3.	Please see the Legal Report.
4.	It is essential for most prospecting works, after passing the preliminary stage of trenching etc that horizontal tunnels should be driven.
5.	The amendment proposed is designed to make the section clear.
6.	It is considered that the location holder should have, in addition to the rights mentioned in section 31 of the Principal Ordinance, all or some of the various other rights in relation to his location which the holder of a prospecting right has generally under section 14.
7.	Corrects a printer's error.
8.	Verbal amendment only.
9.	Corrects a clerical error.
10.	New.
11.	Corrects a clerical error.
12.	Verbal alterations only.
13.	<p>(1) and (5) are practically verbatim taken from the Sierra Leone draft Labour Ordinance, 1931, as amended in the Colonial Office.</p> <p>(2) Cf. section 21 of the Southern Rhodesia Workmen's Compensation Ordinance, 1922.</p> <p>(4) New.</p> <p>(6) Cf. the definition of "workman" in the Southern Rhodesia Ordinance.</p>
14.	Section 91 of the Principal Ordinance is amended so as to exclude the possibility of an employer supplying goods, at his own discretion.

*in use*  
 90095/7/32 *Sal*  
*not de* No. 10/9700/1 *S.L.*

A COPY OF THE MINING (AMENDMENT) BILL  
SHOWING SECTIONS OF THE PRINCIPAL  
ORDINANCE WHICH ARE PROPOSED  
TO BE AMENDED OR REPLACED.

precious stones or non-precious minerals, but save for the purposes of Part V of this Ordinance shall not include clay, murrum, sand, limestone, sandstone or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance:

"mining location" means an area other than a coal location in respect of which mining rights may be acquired under a prospecting right in accordance with the provisions of this Ordinance:

"Native Lands Trust Board" means the Native Lands Trust Board established under the Native Lands Trust Ordinance, 1930:

"Native Reserve" has the meaning assigned to it in the Native Lands Trust Ordinance, 1930:

"non-precious minerals" means all minerals other than precious metals or precious stones:

"open cast" means any uncovered excavation which has been made from the surface for the purpose of winning minerals:

"owner" or "occupier" includes an owner in fee simple, a lessee, a grantee, a licensee and a native in lawful occupation of Crown land:

"precious metals" means gold, silver or metal of the platinum group in the unmanufactured state, including ores containing such metal, but shall not include ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral:

"precious stones" means any diamond, emerald, opal, ruby, sapphire, turquoise and any other stones which the Governor in Council may by notice declare to be included in this definition:

"private lands" includes lands privately owned and land the subject of a grant, lease or licence from the Crown:

"to prospect" means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land:

"protection area" means an area which may be acquired or prescribed under a prospecting right.

"the regulations" means the regulations for the time being in force under this Ordinance:

A COPY OF THE MINING (AMENDMENT) BILL  
SHOWING SECTIONS OF THE PRINCIPAL  
ORDINANCE WHICH ARE PROPOSED  
TO BE AMENDED OR REPLACED.

## ORDINANCE No. LXI of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,  
Governor.

[30TH DECEMBER, 1933.] Date of assent.

**An Ordinance to Consolidate and Amend the Law Relating to Mining.**

By Proclamation. *6th Dec. 1934* Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Mining Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. *S.N. 118/34*

## PART I.

## GENERAL.

2. (1) In this Ordinance, unless inconsistent with the context—

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"coal location" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connexion with prospecting or mining is carried on;

"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals.

Interpretation.

Prospecting right.

Sub-section (1) of section 13 of the Principal Ordinance which it is proposed to amend:—

13. (1) The Commissioner or an officer duly authorized by him in that behalf may issue to any person a prospecting right in the prescribed form upon the payment of the prescribed fee: Provided that a prospecting right shall not be granted—

- (a) to any person who is under eighteen years of age;
- (b) to any person who is unable to read or to any person who is incapable of understanding this Ordinance in such a way as to form a reasonable guide to and restriction on his actions.

Paragraph (3) of section 14 of the Principal Ordinance which it is proposed to amend:—

14. Subject to the exceptions in section 7, and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supplies, the holder of a prospecting right may—

- (3) sink shafts or wells or dig trenches;

Prospecting right privileges.

**ORDINANCE No. LXI of 1933**

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,  
Governor.

[30TH DECEMBER, 1933.] Date of assent.

**An Ordinance to Consolidate and Amend the Law Relating to Mining.**

By Proclamation. *6th Dec. 1934* Date of commencement.

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1. This Ordinance may be cited as "the Mining Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. *S.N. 118/34.*

PART I.

GENERAL.

2. (1) In this Ordinance, unless inconsistent with the context—

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"coal location" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connexion with prospecting or mining is carried on;

"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals.

Short title and commencement.

*S.N. 118/34.*

Interpretation.

Prospecting right.

Prospecting right privileges.

Sub-section (1) of section 13 of the Principal Ordinance which it is proposed to amend:—

13. (1) The Commissioner or an officer duly authorized by him in that behalf may issue to any person a prospecting right in the prescribed form upon the payment of the prescribed fee: Provided that a prospecting right shall not be granted—

(a) to any person who is under eighteen years of age;

(b) to any person who is unable to read or to any person who is incapable of understanding this Ordinance in such a way as to form a reasonable guide to and restriction on his actions.

Paragraph (3) of section 14 of the Principal Ordinance which it is proposed to amend:—

14. Subject to the exceptions in section 7, and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supplies, the holder of a prospecting right may—

(3) sink shafts or wells or dig trenches;

GOVERNMENT NOTICE No. 477

His Excellency the Governor in Council has approved of the following Bill being introduced into the Legislative Council.

J. F. G. TROUGHTON,  
Acting Clerk of the Legislative Council.

**A Bill to Amend the Mining Ordinance, 1933.**

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Mining (Amendment) Ordinance, 1934, and shall be read as one with the Mining Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

Short title.  
No. 61 of 1933

"Amendment of section 2 of the Principal Ordinance hereby amended by the addition after the definition of 'non-precious minerals' of the following definition:—

3-2: Sub-section (d) of section 13 of the Principal Ordinance is hereby amended by the substitution of a semi-colon for the full-stop at the end of paragraph (b) thereof and by the addition thereafter of the following paragraph:—

Amendment of section 13 (d) of the Principal Ordinance

"Officer of the mines Department' means an officer appointed under section 3 of this Ordinance";

(b) to any person to whom there has previously been issued either in his own name or as agent for any individual, syndicate, partnership or company a prospecting right which has not been surrendered or cancelled and which is in all other respects still valid."

4-2: Paragraph (3) of section 14 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Repeal and replacement of section 14 (3) of the Principal Ordinance.

(3) make excavations, sink shafts or wells, drive adits or levels or dig trenches."

Section 19 of the Principal Ordinance which it is proposed to replace:—

Rights under an exclusive prospecting licence.

19. (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet, upon the lands within the area of his prospecting licence, and for such purpose may—

- (a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
- (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant, and construct such ways as may be necessary for or in connexion with his prospecting operations.

(2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg claims upon the lands within the area of his licence as described.

Section 13 of the Principal Ordinance which it is proposed to amend:—

Rights under a location.

31. The holder of a location shall have the right to enter upon the land the subject of the location, and the exclusive right to prospect or mine thereon and to remove therefrom and dispose of the minerals in respect of which the location shall have been registered.

5-4. Section 19 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

Repeal and replacement of section 19 of the Principal Ordinance.

19. (1) The holder of an exclusive prospecting licence shall, upon the lands within the area of such prospecting licence and during the currency of such licence have the following rights:—

Rights under an exclusive prospecting licence.

- (a) the sole right of prospecting;
  - (b) the sole right of alluvial mining if he has obtained the consent thereto of the Commissioner and has paid such fee in respect thereof as the Commissioner shall have required. The amount of such fee shall in no case be in excess of a rate of two shillings in respect of every 10,000 square feet of land; and
  - (c) the sole right of pegging locations.
- (2) The holder of an exclusive prospecting licence may for the purposes set out in the last preceding sub-section—
- (a) enter upon the land within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
  - (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
  - (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant, and construct such ways as may be necessary for or in connexion with his prospecting operations.

6-5. Section 31 of the Principal Ordinance is hereby amended by the insertion after the word "have" in the first line thereof of the following words:—

Amendment of section 31 of the Principal Ordinance.

"in respect of such location all rights conferred on the holder of a prospecting right and shall have".

Section 36 of the Principal Ordinance which it is proposed to amend:—

Owner may remove plant, etc., on surrender.

36. The owner of any plant, machinery, engines or tools on any forfeited or surrendered location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed they may be sold by auction by order of the Commissioner at the risk of the former or the holder of a location. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance.

Section 45 of the Principal Ordinance which it is proposed to amend:—

Renewal of lease

45. If at the expiration of the term originally granted or of any renewal thereof the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Ordinance, and the lessee shall have given to the Commissioner six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new leases.

Provided that in the case of any renewal the rent shall not be increased.

Section 76 of the Principal Ordinance which it is proposed to amend:—

Restriction on purchase

76. The holder of a licence under the last preceding section shall not buy any such mineral except from the holder of a lease, a location, a prospecting right, if authorized under sub-section (3) of section 24, or exclusive prospecting licence, or a licence under this Part.

76. Section 36 of the Principal Ordinance is hereby amended by the deletion of the words "or the" which occur between the words "former" and "holder" in the ninth line thereof. Amendment of section 36 of the Principal Ordinance.

77. Section 45 of the Principal Ordinance is hereby amended by the deletion of the words "at that time be liable to be forfeited" which occur in the third and fourth lines thereof, and the substitution therefor of the words "prior to such expiration have become liable to forfeiture". Amendment of section 45 of the Principal Ordinance

78. Section 76 of the Principal Ordinance is hereby amended by the substitution of the figures "23" for the figures "24" which occur in the fourth line thereof. Amendment of section 76 of the Principal Ordinance

Agreement not to preclude or exempt.

84. No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Proceedings in case of accidents.

85. (1) Whenever an accident shall occur in connexion with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident the magistrate shall hold an inquiry into the cause thereof.

(3) The magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned or oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

Powers of officers.

Section 80 of the Principal Ordinance which it is proposed to amend:—

80. The Commissioner, Mining Engineer, Inspector or Assistant Inspector or any other person duly authorized by the Commissioner in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may:—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or which is the subject of any right, licence, location, or lease;
- (ii) examine into and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining activity, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and ways;
- (iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined;
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of this Ordinance into effect.

Section 86 of the Principal Ordinance which it is proposed to replace:—

86. (1) If the person killed or injured is a native employed in connexion with the mining or prospecting operations, and the lessee, or holder of the location, licence, or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.

Compensation on death of, or injury to, native.

Agreement not to preclude or exempt.

Proceedings in case of accidents.

84. No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

85. (1) Whenever an accident shall occur in connexion with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident the magistrate shall hold an inquiry into the cause thereof.

(3) The magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned or oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

Section 80 of the Principal Ordinance which it is proposed to amend:—

Powers of officers.

80. The Commissioner, Mining Engineer, Inspector or Assistant Inspector or any other person duly authorized by the Commissioner in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or which is the subject of any right, licence, location, or lease;
- (ii) examine into and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining activity, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and ways;
- (iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined;
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of this Ordinance into effect.

Section 86 of the Principal Ordinance which it is proposed to replace:—

Compensation of death of, or injury to, native.

86. (1) If the person killed or injured is a native employed in connexion with the mining or prospecting operations, and the lessee, or holder of the location, licence, or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.

"serious and drunkenness, wilful contravention or any law or regulation made for the purpose of ensuring the safety of or preventing accidents to persons, or any other act or omission which the magistrate, having regard to all the circumstances of an accident causing injury, may declare to be serious and wilful misconduct.

Amount of compensation. (2) The amount of compensation so assessed shall not exceed -

(a) in the case of death or total or permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

(b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated

by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less:

To whom compensation to be paid.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid -

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

Appeals.

(5) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court.

Persons excluded from compensation.

(6) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was -

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

(c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;

(d) paid a wage or salary in respect of his work by the month at a rate

serious drunkenness, wilful contravention of any law or regulation made for the purpose of ensuring the safety of or preventing accidents to persons, or any other act or omission which the magistrate, having regard to all the circumstances of an accident causing injury, may declare to be serious and wilful misconduct.

Amount of compensation. assessed shall not exceed -

(a) in the case of death or total or permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

(b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated

by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less:

To whom compensation to be paid.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid -

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

Appeals.

(5) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court.

Persons excluded from compensation.

(6) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was -

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

(c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;

(d) paid a wage or salary in respect of his work by the month at a rate

permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

- (b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less;

To whom  
compensation  
to be paid.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid -

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

Appeals.

(5) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court.

Persons  
excluded  
from  
compensation.

(6) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was -

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

(c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;

(d) paid a wage or salary in respect of his work by the month at a rate exceeding eight hundred and thirty three shillings and Cents thirty three per month;

(e) paid a wage or salary in respect of his work by the year at a rate exceeding ten thousand shillings;

Provided that the daily, weekly, monthly or yearly pay of such person shall be calculated exclusive of pay for overtime."

permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

- (b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated

by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less:

To whom  
compensation  
to be paid.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid -

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

Appeals.

(5) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court.

Persons  
excluded  
from  
compensation.

(6) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was -

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

(c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;

(d) paid a wage or salary in respect of his work by the month at a rate exceeding eight hundred and thirty three shillings and Cents thirty three per month;

(e) paid a wage or salary in respect of his work by the year at a rate exceeding ten thousand shillings:

Provided that the daily, weekly, monthly or yearly pay of such person shall be calculated exclusive of pay for overtime."

10. Section 80 of the Principal Ordinance is hereby amended in the following respects:—

(a) by the insertion therein next after paragraph (v) of the following additional paragraph numbered as (vi):—

"(vi) examine and make inquiry into any accident occurring in respect of any prospecting or mining activity and may lay information before a magistrate and apply for a summons or other legal process against any person in connection therewith."

(b) by the renumbering of paragraph (vi) therein as paragraph (vii).

Amendment  
of section 80  
of the  
Principal  
Ordinance.

11. Section 84 of the Principal Ordinance is hereby amended and shall be read as if the word "four" which occurs in the third line thereof were deleted and the word "three" substituted therefor:

10. Section 86 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

86. (1) If the lessee or holder of the location, licence or right on which the accident occurred shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of the person killed or injured, such lessee or holder of the location, licence or right shall be ordered by the officer to pay such sum as he may award by way of compensation.

(2) The amount of compensation so awarded shall in no case exceed the total sum represented by multiplying

Repeal and  
replacement  
of section 86  
of the  
Principal  
Ordinance.

Compensa-  
tion for  
death or  
injury.

Repeal and  
replacement  
of section  
86 of the  
Principal  
Ordinance.

Compensation  
on death of  
or injury to  
employees.

13. Section 86 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

86. (1) Save as is provided in sub-section (6) of this section, compensation, the amount of which shall be assessed by the Magistrate, shall be payable by any lessee, holder of a location, licence or right in respect of any personal injury caused to any person employed by such lessee, holder of a location, licence or right by any accident arising out of and in the course of his employment whereby such person has become temporarily or permanently, partially or totally incapacitated, or has met his death:

Provided that no compensation shall be payable under this section in respect of

repeal and  
replacement  
of Section  
85 of the  
Principal  
Ordinance.

12. Section 85 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

85. (1) Every person in charge of mining or prospecting operations shall as soon as practicable after the occurrence of any accident in connection with mining or prospecting operations causing or resulting in loss of life, or injury to any person causing temporary or permanent, partial or total incapacity, report in writing the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident a Magistrate of the first or second class shall hold an inquiry into the cause thereof.

(3) The Magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the Magistrate, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by a Magistrate shall, subject to any order made by such Magistrate, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct."

Section 91 of the Principal Ordinance which it is proposed to replace :—

• Payment of wages.

91. All wages due to any person employed by the holder of a prospecting right or on any location, lease, or exclusive prospecting licence shall be paid to such person in cash when due and in no case later than seven days thereafter without any deduction whatsoever, except for cash advances, payments on orders given by the employee and goods supplied on the location, lease, or exclusive prospecting licence to the employee for his personal use.

by thirty six the monthly wage or salary of which the person killed or injured was in receipt at the time of the accident.

(3) Where such compensation is to be paid in respect of injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid—

(a) if the deceased was a non-native, to the legal representative of the deceased,

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

(5) Any person who is dissatisfied with an award made under this section by an officer holding an inquiry, may on giving written notice to such officer appeal to the Supreme Court within thirty days of the date of such award.

(6) Compensation awarded under this section shall be recoverable as a civil debt."

1411. Section 91 of the Principal Ordinance is hereby repealed and the following section substituted therefor :—

Repeal and replacement of section 91 of the Principal Ordinance. Payment of wages.

"91. (1) All wages due to any person employed by the holder of a prospecting right or on any location, lease or exclusive prospecting licence shall be paid to such person in cash when due and in no case later than seven days thereafter.

(2) No deduction whatsoever shall be made from such wages save only in respect of—

(a) repayment of cash advances made to the employee by the employer,

(b) payments for goods ordered by the employee for his personal use and supplied to him by the employer on the location, lease or exclusive prospecting licence."

#### OBJECTS AND REASONS.

This Bill is designed to effect a number of minor amendments to the Principal Ordinance at the instance of the Secretary of State.

The opportunity has been taken to make more detailed provision for the payment of compensation in respect of death or injury resulting from mining accidents.

Clause 10 of the Bill enables the officer holding an inquiry into a mining accident to grant compensation where the circumstances are such as to justify an award. The compensation is not to exceed an amount equal to three years' wages of the deceased or injured person.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

## GOVERNMENT NOTICE NO 563

(The following Notice is published in place of General Notice No. 1086 dated 26th July, 1934, which is hereby cancelled.)

## THE MINING ORDINANCE, 1933

NOTICE is hereby given that Exclusive Prospecting Licences have been issued or renewed as follows:—

Licensee	Approx. Area	Locality	Term	Minerals	Remarks
Risks, Ltd.	1.2 sq. miles	As described in the Schedule to Govt. Notice 601 of the 16th Sept., 1933.	One year from the 1st May, 1934	All minerals except coal, oil and common minerals	
Yala Gold Dredging Syndicate	1.7 sq. miles	As described in the Schedule to Govt. Notice 805 of the 9th Dec., 1933.	Three months from 1st April, 1934	ditto	Subsequently transferred to Kenya Reefs, Ltd., and extended nine months
Tanani (Australian) Gold Mining Syndicate	.40 sq. miles	As described in the Schedule to Govt. Notice 484 of the 22nd July, 1933.	Three months from 5th Feb., 1934	ditto	Subsequently extended for three months
Tanganyika Concessions, Limited	3.50 sq. miles	As described in the Schedule to Govt. Notice 641 of the 30th Dec., 1933.	One year from the 1st March, 1934	ditto	
Eldoret Kakamega Mining Ventures, Limited	.48 sq. miles	As described in the Schedule to Govt. Notice 602 of the 16th Sept., 1933.	Three months from 13th March, 1934	ditto	Extended for one month
Eldoret Mining Syndicate, Ltd.	34.00 sq. miles	Situated South-East of Kakamega Township in the N. K. District	One year from the 16th Oct., 1933	ditto	
Lochhead, Moore and Roy, Ltd.	75 acres	Situated in the Kakamega District of South Kavirondo	One year from the 1st January, 1934	ditto	First Renewal
Eldoret Kakamega Mining Ventures, Limited	2.11 sq. miles	As described in the Schedule to Govt. Notice 603 of the 16th Sept., 1933.	Three months from 13th March, 1934	ditto	Extended for nine months

AND the following Government Notices are hereby cancelled:—

- Government Notice No. 601 of the 16th day of September, 1933.
- Government Notice No. 805 of the 9th day of December, 1933.
- Government Notice No. 484 of the 22nd day of July, 1933.
- Government Notice No. 641 of the 30th day of December, 1933.
- Government Notice No. 7 of the 21st day of December, 1933.
- Government Notice No. 602 of the 16th day of September, 1933.
- Government Notice No. 603 of the 16th day of September, 1933.

Nairobi,

This 28th day of July, 1934

E. B. HOSKING,  
Commissioner of Mines.

GOVERNMENT NOTICE NO 425

THE MINING ORDINANCE, 1933.  
THE MINING IN PROCLAIMED AREAS  
ORDINANCE, 1933.

IT is notified for general information that Government is prepared to receive applications from companies, syndicates or individuals for exclusive prospecting licences over the whole or part of the area (1 mile strip of Yala River) reserved in section 2 of the second schedule to Government Notice No. 286 of the 17th April.

In accordance with section 17 of the Mining Ordinance, 1933, applications must be in the prescribed form and applicants must give evidence of sufficient capital to ensure proper prospecting and must furnish details of the methods which they propose to pursue if their application is granted. Licences will be granted for one year but may be renewed at the discretion of the Governor for further terms of one year up to a maximum of five years on submission of a programme of further development.

A fee of £20 per square mile as prescribed by the Mining in Proclaimed Areas Ordinance, 1933, will be payable in addition to any fees payable under the Mining Ordinance, 1933.

Applications accompanied by the appropriate fees should be in the hands of the Commissioner of Mines on or before the 31st July, 1934.

Applicants are warned that the area is liable to be infected with trypanosomiasis (sleeping sickness) and that special health precautions as directed by the Medical Officer of Health must be taken by the successful applicant or applicants.

Nairobi,

13th June, 1934.

E. B. HOSKING,  
*Commissioner of Mines.*

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REPORT  
OF  
THE SELECT COMMITTEE OF THE LEGISLATIVE  
COUNCIL APPOINTED TO CONSIDER AND  
REPORT UPON THE PROVISIONS OF A  
BILL TO AMEND THE MINING  
ORDINANCE, 1933.  
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Your Excellency,

We, the Members of the Select Committee appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects -

1. That a new Clause to be numbered 2 be inserted after Clause 1 of the Bill, to read as follows:-

"Amendment 2. Section 2 of the Principal Ordinance is hereby amended by the addition after the definition 2 of 'non-precious minerals' of the following definition:-  
Principal Ordinance.

"'Officer of the Mines Department' means an officer appointed under section 9 of this Ordinance";

and that the subsequent Clauses be renumbered accordingly.

2. That a new Clause to be numbered 11 be inserted after new Clause 10 of the Bill:-

"Amendment 11. Section 84 of the Principal Ordinance is hereby amended and shall be read 8 of the as if the word 'four' which occurs in the third Principal line thereof were deleted and the word 'three' Ordinance. substituted therefor";

and that the subsequent Clauses be renumbered accordingly.

3. That a new Clause to be numbered 12 be inserted after new Clause 11 of the Bill, as follows:-

"Repeal and replacement of Section 85 of the Principal Ordinance. 12. Section 85 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:-  
'85. (1) Every person in charge of mining or prospecting operations shall as soon as practicable after the occur-

rence of any accident in connection with mining or prospecting operations causing or resulting in loss of life, or injury to any person causing temporary or permanent, partial or total incapacity, report in writing the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident a Magistrate of the first or second class shall hold an inquiry into the cause thereof.

(3) The Magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the Magistrate, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by a Magistrate shall, subject to any order made by such Magistrate, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct."

and that the subsequent clauses be renumbered accordingly.

4. That new Clause 13 b. deleted, and the following Clause be substituted therefor:-

repeal and replacement of Section 86 of the Principal Ordinance.

"13. Section 86 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:-

'Compensation on death of or injury to 86. (1) Compensation shall be payable by any lessee, holder of a location, licence or right in

employees. respect of any personal injury caused to any person employed by such lessee, holder of a locavion, licence or right by any accident arising out of or in the course of his employment whereby such person has become temporarily or permanently, partially or totally incapacitated, or has met his death, the amount of which shall be assessed by the Magistrate: Provided that no compensation shall be payable under this section in respect of an injury to a person which was due to his own serious and wilful misconduct, which shall include drunkenness, wilful contravention of any law or regulation made for the purpose of insuring the safety of or preventing accidents to persons, or any other act or omission which the Magistrate, having regard to all the circumstances of an accident causing injury, may declare to be serious and wilful misconduct.

(2) Any person dissatisfied with any award under this section of the Magistrate may within thirty days of the making of the award, and on giving notice to such Magistrate appeal to the Supreme Court."

5. That new Clause 14 be amended by the addition of the word "area" after the expression "exclusive prospecting licence", wherever such expression occurs in that Clause.

6. The Hon'ble Mr. Pandya likes it to be recorded that although he agrees with and has signed this report yet he considers that Section 91(2) (b) of the Principal Ordinance which is amended by new Clause 14 of the Bill should be deleted.

We have the honour to be,  
Your Excellency's most obedient  
servants,

Sd. E. B. HOSKING (CHAIRMAN)  
Sd. M. L. MONTGOMERY (MEMBER)  
Sd. T. D. H. BRUCE (MEMBER)  
Sd. F. W. CAVENDISH-BENTINCK (MEMBER)  
Sd. CONWAY HARVEY (MEMBER)  
Sd. J. B. PANDYA (MEMBER).

Nairobi,  
October, 1934.

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MINING LEASES BILL  
1911.

I quite appreciate that the Mining Lease Bill has got to be carefully drafted, and it is satisfactory to know that the delay won't prejudice your mining development.

Harris wrote rather a stupid letter to "The Times", of which I am glad to say no further notice has been taken, suggesting a special levy on gold mining for the native territories. The short and complete answer which I shall give to this, if the question is raised in Parliament, is that it is the duty of the Government, in granting mining leases, to get the best rent possible, and that there is therefore no question of imposing an extra levy. I understand that some official papers are coming to me about royalties, and I gather that there has been some suggestion by your Unofficial Members that these should be put on a low scale in order to encourage development. I suspect this advice of being prejudiced; and I am quite certain, from my experience elsewhere, that sound mining companies would not be deterred by being asked to pay a fair rent. Last year I settled quite satisfactory terms with the Gold Coast companies which included a payment on the extra price due to the gold premium, but so conditioned as to ensure that mines which could only work on the premium were not hampered in their development.

Times  
1.6.34

## KENYA AND GOLD

### NATIVE LANDHOLDERS

TO THE EDITOR OF THE TIMES

Sir,—Every one interested in tropical development owes a debt of gratitude to Sir Morris Carter and his colleagues for the patience and zeal they have shown in the preparation of the Report and accompanying documents upon the whole question of native land tenure in Kenya Colony. The members of the Commission have laboured earnestly to rectify some of the admitted mistakes of the past, and although some of us would have wished to see still more generous proposals for native land, the fact remains that something has been done to meet almost every legitimate grievance of native landholders.

There is, however, one feature which at this moment overtops all others in urgency and importance. It is impossible to study the voluminous documents without sharing the alarm of the Commissioners at the improvident use of the land and the urgency of embarking upon scientific schemes of development. In the Report alone there are at least 25 passages calling attention to this situation. Sir Morris Carter says it "is a crucial point how the land is to be used"; in another place he calls it a "grave and urgent" matter, and well expresses the general position in the following passage:

In the midst of plenty the natives in pastoral and semi-pastoral areas are in fact living under conditions of extreme poverty. We have a preposterous state of affairs in the Colony—a human population of under 3,000,000 owns about 6,000,000 cattle and probably more sheep and goats.

Yet they are without milk for many months in the year and meat consumption is below normal requirements!

It is clear that large funds will be needed if the natives are to be taught to make good economic use of the land. It is impossible for Kenya Colony to add any considerable burden to her expenditure. But an opportunity—and literally a golden one—is presented to the Colonial Secretary. Gold is being won to-day in considerable values, and it promises to become much more substantial in future. This is being won largely from beneath the surface of the native lands. It is surely only fair that a modest levy should be imposed on mineral wealth garnered from beneath the native lands to develop agricultural and pastoral wealth on the surface of the soil. But now is the moment for the Colonial Secretary to take this step. In six months that golden opportunity may have gone for ever!

Yours faithfully,

JOHN HARRIS.

The Anti-Slavery and Aborigines Protection Society, Denison House, 296, Vauxhall Bridge Road, London, S.W.1.

## KENYA AND GOLD

TO THE EDITOR OF THE TIMES

Sir,—In your issue of June 1 Sir John Harris suggests that it would be surely only fair that a modest levy should be imposed on the mineral wealth garnered from beneath the native lands to develop agricultural and pastoral wealth on the surface of the soil and that the Secretary of State should take this step immediately.

It should be within Sir John Harris's knowledge that the local Government already has full powers in this connexion and that apart from Government dues payable in respect of mining leases, licences, and claims, the Government takes a royalty at present fixed at 5 per cent. on the gross sum realized from gold won, that is to say, without taking into account the costs of development or production. To increase these dues and royalty in the infancy of the industry might well kill the prospective goose. The Government has well in hand the active development of the agricultural and pastoral wealth of the native lands, but this object cannot be attained in a short space of time. The process is a slow one and involves the education of the native in agricultural and pastoral pursuits, the organization of native agriculture and stock-breeding and cooperation among the natives carrying on these pursuits. A satisfactory commencement has already been made.

As regards overstocking, if Sir John Harris can indicate a simple method of convincing the native that he will be better off with a small fraction of the cattle which he is at present maintaining on the land he will have done a great service to the Colony.

Yours faithfully,

ERIC S. WELCH

10, Drayton Gardens, E.C.2

for publication in the Times 2/11/34 P

2,3061/2430  
12

GOVERNMENT NOTICE No. 335

THE MINING ORDINANCE 1933

NOTICE is hereby given under section 17 (2) of the Mining Ordinance, 1933, that an application by James Howard, representing Southern Cross Development Company (Pty), Limited, Capetown, in South Africa, has been accepted for consideration for an Exclusive Prospecting Licence over an area of approximately 5,050 square miles situated in the south-west portion of the Northern Frontier District as described in the Schedule hereto.

Under section 7 (d) of the Mining Ordinance, 1933, this area, except such portion already held under existing mining title, is therefore excluded to prospecting or to occupation under any Prospecting Right with effect from the date hereof.

Objections to the grant of the Exclusive Prospecting Licence applied for will be entertained until the 31st day of May, 1934, and should be addressed to the Commissioner of Mines, Department of Local Government, Lands Settlement and Mines, P.O. Box 339, Nairobi.

Nairobi,

Dated this 24th day of April 1934.

E. B. HOSKING,

*Acting Commissioner of Mines,  
Department of Local Government, Lands  
Settlement and Mines.*

SCHEDULE.

An area of approximately 5,050 square miles bounded as follows:-

Commencing at the bridge over the Northern Engare Vaso Nairo near Archer's Post shown on Miscellaneous (Topo) Map No. 242, thence up stream by the centre line of that river to its intersection with the centre line of the Engare Vaso Narok.

thence north westerly by a straight line to the western scarp of Loroki Hill (survey point 8090 feet) on the western boundary of the northern game reserve; thence northerly by that boundary to the summit of Kowop Hill;

thence easterly by a straight line to the point Laisamis on the road from Marsabit to Archer's Post;

thence by that road to the point of commencement.

KENYA.

No. 217



37  
GOVERNMENT HOUSE  
NAIROBI,  
KENYA.

RECEIVED

21 MAY 1934

G. O. REGY

26 APRIL, 1934.

Sir,

(14)  
I have the honour to refer to your despatch no. 180 of the 12th march on the subject of the Mining Ordinance, 1933.

2. The reference to claims in section 14(6) was intentional. The claim is the unit of the location and must be pegged out in pegging a location, vide regulations 12-15 of the Mining Regulations, 1934 (Government notice no. 110 of the 6th february, 1934). A location may consist of claims of varying sizes.

See n<sup>o</sup>. 6.

3. With this exception, the amendments suggested in your despatch will be included in the first amending bill to the mining Ordinance, 1933.

I have the honour to be,

Sir,

Your most obedient, humble servant,

A handwritten signature in dark ink, appearing to be 'H. P. Lister', written over a large, stylized flourish.

BRIGADIER-GENERAL  
GOVERNOR.

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP GUNLIFFE-LISTER, F.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W.1.

Telegram from the Secretary of State for the Colonies  
to the Governor of Kenya.

Sent 3 p.m. 14th May, 1934.  
-----

No.126.

My telegram 9th May No.122 White Paper on Kenya  
Lana Commission Report contains the following paragraphs:-

"In paragraphs 1573-1577 the Commission give their reasons  
why, in their opinion, this process of setting apart as  
opposed to exclusion from the Reserve is more convenient,  
more to the advantage of the natives and more in accord  
with native sentiment.

As mining development in Kenya will involve the granting  
of leases before the general amending Ordinance could be  
passed, His Majesty's Government think it is essential that  
power should be taken to grant such mining leases in the  
form which the Commission consider is more consonant with  
native interest and native wishes. They have accordingly  
authorised the Government of Kenya to prepare and introduce  
an amending Ordinance to deal with this immediate problem,  
and to authorise the granting of mining leases on the lines  
which the Commission recommend"

Please report by telegraph when draft Bill is  
published and forward copies by air mail.

Cty. Draft  
23034/34IDA  
59

Telegram from the Secretary of State for the Colonies  
to the Governor of Kenya.

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which the Commission recommend"

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published and forward copies by air mail.

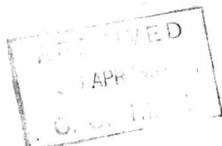


THE SECRETARIAT,  
NAIROBI,  
KENYA.

WHEN REPLYING  
PLEASE QUOTE  
No. 67 / MIN. 1/1/6/1/1.  
AND DATE

18th April, 1934.

BY AIR MAIL.



N<sup>o</sup>8

Dear Flood,

With reference to your letter of the 2nd April on the subject of mining royalties, the reason why the new Mining Regulations do not provide for remission of half the royalty rate to the small producer is that no advantage was ever taken of this provision by the small man, for whom it was designed. He would in practice cash in a few dwt. at a time to a buyer and it was not worth while for him or for the buyer to make and substantiate a claim for refund. Such a claim would have entailed checking of returns of all buyers and proving in addition that the gold in question had been produced in any one month.

2. It is true that latterly a few of the more well to do people, whom the provision was not particularly designed to help, instructed their banks to obtain the refund. In sending in £50 worth of gold they would say that it was three months' production. The Treasury made difficulties about accepting their statement. Proof that no one month's production exceeded £50 was of course difficult.

3. The reasons for rejecting the sliding scale ...

J. E. W. FLOOD, ESQ., C.M.G.,  
COLONIAL OFFICE.

scale proposal and retaining the flat rate were mainly that it was felt that it would be difficult to meet the argument put forward by local unofficial opinion that it would be unreasonable to increase the royalty on the plea of enhanced premium, because gold mining started at Kakamega when gold values already stood at a premium of Shs.120/-. Mining operations there are largely based on the assumption that gold will not fall below that figure. Further, strong representations had been made for a reduced royalty and even for no royalty at all. In these circumstances it was easier to defend the retention of the status quo, on which the budget estimate was based, and which for the time being appeared adequately to safeguard the Government revenue. Allegations have been made, recently also by Sir Albert Kitson, that mining conditions are easier in Tanganyika and that it is advisable at present to retain uniformity. It was further felt that alteration was not justified while the goldfields were still in the development stage. As you know, they have not yet reached the stage of production.

Yours sincerely,

*Mr. Williams*

C. O.

Mr. Roberts-Wray. 4.4.34.

Mr. Flood 4-4/34

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

S.o. for Mr. Roberts-Wray's signature.

Downing Street, S.W.1.

5th April, 1934.

*Dear Mr. Harragin*

The examination here of your

**DRAFT.**

W. HARRAGIN, ESQ.

(Attorney-General,  
*Kenya.*  
~~Nyasaland~~)

*and we should like you to know that*

(N.B. on envelope only:-

The Honourable W. Harragin).

**FURTHER ACTION.**

Mining Ordinance was inevitably

a big undertaking for all con-

cerned, ~~but~~ everyone who had to

go through it was very greatly

assisted by the very clear way

in which it was put up, and

particularly by your excellent

scissors and paste annotated

copy. Many thanks to you and

to anyone else in your Depart-

ment.

ment who helped, not only from me,  
but also, I am particularly asked  
to say, from the East African Department.

As you know from your own experience,  
we are generally pretty hard pressed in  
this Office, and any assistance of this  
kind which is given to us is greatly  
appreciated. We do not lose sight  
of the fact that your time, too, is  
fully occupied.

I hope you are enjoying  
life in Kenya.

Yours sincerely,

(Sgd.) H.O. Roberts. 25/10/34

C. O. AIR MAIL

23061/34 Kenya.

Mr. Freeston. 29/3

Mr. Flood 29.3.

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Semi-official for Sir C. Bottomley's signature.

To go by  
next week's  
AIR MAIL.

31 MAP  
22 April  
Announced by No.

Downing Street,

24 April 1934.

Dear Moore,

DRAFT. conson.

H.M. Moore, Esq., C.M.G.

7) We have noticed from the  
Kenya Gazette that the new Mining  
Regulations (made, apparently, some  
weeks before the despatch of Colonial  
Office telegram No. 44 of the 23rd of  
February, maintain <sup>the</sup> flat rate of  
royalty on gold at 5%; but that the  
remission of half the rate to the  
smaller producer has disappeared.  
Can you let me know the reason for  
this change? Our experts here,  
whose suggestions for a sliding scale  
were passed to you in <sup>Bottomley's</sup> letter of  
the 24th of October, attached much  
importance to preserving the  
concession made in <sup>6(1)c</sup> of the  
Regulations of September, 1932.

30 m 3033/35

Sam Sturges

FURTHER ACTION.

It would also be informativ

to

C.O. 533 / 413  
PUBLIC RECORDS OFFICE, LONDON  
ALLY WITHOUT PERMISSION OF THE

informative to know Govt.'s reason for  
rejecting the sliding scale proposal which  
was calculated to secure for Govt. a  
reasonable share of the profits earned from  
Crown minerals without deterring the investor.  
The whole question is one in which the  
Secretary of State himself takes some interest;  
and before bringing <sup>it</sup> to his notice again we  
should like to know a little more of the  
Kenya Govt.'s attitude.

Yours sincerely,

[ Bottomley is away or he would  
have signed this ].

## 5. THE CENTRAL PROVINCE : MACHAKOS AND KITUI DISTRICTS.

(1) The movement of cattle into the native reserves of these districts may be permitted by sanction of the Provincial Commissioner and Chief Veterinary Officer provided that the cattle have been immunized against rinderpest and branded distinctly with the Government brand denoting that immunity, at the discretion of the Chief Veterinary Officer or any Veterinary Officer authorized on his behalf.

(2) Movement of cattle out of the native reserves of those districts may be permitted at the discretion of the Chief Veterinary Officer with the consent of the Provincial Commissioner and with or without any form of immunization against rinderpest as the Chief Veterinary Officer may decide.

(3) The movement of non-immune cattle for slaughter purposes only out of the native reserves of these districts may be permitted subject to veterinary inspection and control at Machakos or Mariakani.

## 6. THE CENTRAL PROVINCE (OTHER THAN THE MACHAKOS AND KITUI DISTRICTS), RIFT VALLEY AND NYANZA PROVINCES AND THE TURKANA DISTRICT.

(1) The movement of cattle out of or into native reserves or native areas of these provinces or the Turkana District may be permitted by sanction of the Provincial Commissioner or Officer in Charge and the Chief Veterinary Officer provided that the cattle have been immunized against rinderpest and branded distinctly with the Government brand denoting such immunity at the discretion of the Chief Veterinary Officer.

## GOVERNMENT NOTICE NO. 118

## THE MINING ORDINANCE, 1933.

## DATE OF OPERATION.

IN EXERCISE of the powers conferred upon him by section 1 of the Mining Ordinance, 1933, His Excellency the Governor has been pleased to determine the 6th February, 1934, as the date on which the said Ordinance shall come into operation.

By Command of His Excellency the Governor.

Nairobi,  
5th February, 1934.

H. L. G. GURNEY,  
for Colonial Secretary.

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pest and vaccinated against pleuro-pneumonia or otherwise dealt with as may be considered necessary by the Chief Veterinary Officer. The owner or agent shall pay the prescribed fees for the services. All animals other than camels and dogs shall be dipped and cattle branded as required before leaving the Isiolo Veterinary Station and payment therefor shall be made at the prescribed rate. Cattle for slaughter purposes only may be exported from Isiolo at the discretion of the Chief Veterinary Officer provided that such cattle are moved under escort by such routes and to such places as he may decide and are slaughtered within a period to be determined by the Chief Veterinary Officer or any veterinary officer authorized by him.

(3) Cattle, sheep or goats may be moved from non-infected areas of the Northern Frontier District to Mombasa or Lamu subject to inspection and quarantine at Garissa or Ijara or such other places as the Chief Veterinary Officer may decide and subject to such conditions as he may deem necessary.

(4) The movement of horses and mules out of native areas of the district may be permitted provided the animals have successfully passed the Mallein test for glanders and are otherwise free from disease.

(5) The movement of camels into or out of the native areas of the Northern Frontier District is prohibited with the exception of movement which may be permitted into or out of the Coast Province, and to Meru for slaughter purposes.

(6) The movement of dogs out of the Northern Frontier District is prohibited.

#### 4. MASAI DISTRICT.

(1) The movement of cattle into the native reserves of the Masai District may be permitted by sanction of the Officer in Charge and the Chief Veterinary Officer provided that the cattle have been immunized against rinderpest and contagious bovine pleuro-pneumonia and branded distinctly with the Government brand denoting such immunity, at the discretion of the Chief Veterinary Officer.

(2) The movement of cattle for sale purposes only out of the native reserves of the Masai District may be permitted at the discretion of the Chief Veterinary Officer provided that the cattle are moved with or without escort and subject to such conditions as may be necessary, and are slaughtered within a period to be determined by the Chief Veterinary Officer or any Veterinary Officer authorized by him.

### GOVERNMENT NOTICE NO. 110

#### THE MINING ORDINANCE, 1933.

##### REGULATIONS.

IN EXERCISE of the powers conferred upon him by section 101 of the Mining Ordinance, 1933, His Excellency the Governor in Council has been pleased to make the following Regulations:—

##### Short title.

1. These Regulations may be cited as the Mining Regulations, 1934, and shall come into force on the first day of March, 1934.

#### PART I.

##### PRELIMINARY PROSPECTING.

##### Applications.

2. (1) An application for a Prospecting Right shall be made in duplicate to the Commissioner on the Form (No. 1) set out in the First Schedule hereto.

(2) Prospecting rights may be issued by the Commissioner, or by any officer appointed by him on his behalf.

##### Protection notices.

(3) A Prospecting Right shall follow as closely as may be the Form (No. 2) set out in the First Schedule hereto.

3. Any holder of a Prospecting Right may post a notice to be called "a Protection Notice". Such notice shall—

(a) follow as closely as may be the Form (No. 3) set out in the First Schedule hereto;

(b) be carried in an upright artificial support erected in a conspicuous and accessible place; all brushwood around such notice shall be cleared for a distance of 30 feet.

The erection of such notice shall confer upon the holder the exclusive right of prospecting within an area of 500 yards measured from the notice in any direction (such area to be termed "a Protection Area") for a period of 30 days from the date of erection.

##### Extensions of protection period.

4. (1) The Commissioner at his discretion, may extend the period of protection provided by the notice for a period of five months on payment of the prescribed fees.

(2) Application for such extension must be accompanied by a Statement of Work which shall be in the Form (No. 4) set out in the First Schedule hereto.

pest and vaccinated against pleuro-pneumonia or otherwise dealt with as may be considered necessary by the Chief Veterinary Officer. The owner or agent shall pay the prescribed fees for the services. All animals other than camels and dogs shall be dipped and cattle branded as required before leaving the Isiolo Veterinary Station and payment therefor shall be made at the prescribed rate. Cattle for slaughter purposes only may be exported from Isiolo at the discretion of the Chief Veterinary Officer provided that such cattle are moved under escort by such routes and to such places as he may decide and are slaughtered within a period to be determined by the Chief Veterinary Officer or any veterinary officer authorized by him.

(3) Cattle, sheep or goats may be moved from non-infected areas of the Northern Frontier District to Mombasa or Lamu subject to inspection and quarantine at Garissa or Ijara or such other places as the Chief Veterinary Officer may decide and subject to such conditions as he may deem necessary.

(4) The movement of horses and mules out of native areas of the district may be permitted provided the animals have successfully passed the Mallein test for glanders and are otherwise free from disease.

(5) The movement of camels into or out of the native areas of the Northern Frontier District is prohibited with the exception of movement which may be permitted into or out of the Coast Province, and to Meru for slaughter purposes.

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3. Any holder of a Prospecting Right may post a notice to be called "a Protection Notice". Such notice shall—

(a) follow as closely as may be the Form (No. 3) set out in the First Schedule hereto;

(b) be carried in an upright artificial support erected in a conspicuous and accessible place; all brushwood around such notice shall be cleared for a distance of 30 feet.

The erection of such notice shall confer upon the holder the exclusive right of prospecting within an area of 500 yards measured from the notice in any direction (such area to be termed "a Protection Area") for a period of 30 days from the date of erection.

**Extensions of protection period.** 4. (1) The Commissioner at his discretion, may extend the period of protection provided by the notice for a period of five months on payment of the prescribed fees.

(2) Application for such extension must be accompanied by a Statement of Work which shall be in the Form (No. 4) set out in the First Schedule hereto.

PROCLAMATION No. 15

COLONY AND PROTECTORATE OF KENYA.



THE REGISTRATION OF DOMESTIC SERVANTS  
ORDINANCE, 1928.

PROCLAMATION.

J. BYRNE.

BY His Excellency Sir Joseph Aloysius Byrne, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, a Knight of Grace of the Venerable Order of the Hospital of Saint John of Jerusalem, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya.

IN EXERCISE of the powers conferred upon me by section 2 of the Registration of Domestic Servants Ordinance, 1928, I hereby appoint the area under the jurisdiction of the Nakuru Municipal Board to be a Registration District for the purposes of the said Ordinance, with effect from the 1st day of February, 1934.

GOD SAVE THE KING.

Given under my hand and the Public Seal of the Colony at Nairobi this 31st day of January, 1934.

By Command of His Excellency the Governor.

H. M.-M. MOORE,  
Colonial Secretary.

(3) The Commissioner shall issue a Certificate of Extension which shall be registered in the register of the district and which shall follow as closely as may be the Form (No. 5) set out in the First Schedule hereto.

5. Until the prospecting notice posted under a Prospecting Right shall have been removed no second or further Prospecting Notice shall be posted in the same administrative district by virtue of such Prospecting Right.

Protection notices and area.

Any person who acts in contravention of or fails to comply with this Regulation shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding two months or to both.

Penalty.

PART II.

EXCLUSIVE PROSPECTING LICENCES.

6. An application for an Exclusive Prospecting Licence shall be made to the Commissioner through the Inspector of Mines or Warden, in duplicate and in the Form (No. 6) set out in the First Schedule hereto, and the prescribed fees shall accompany the application.

Application for Exclusive Prospecting Licence.

7. A sketch plan in duplicate on a reasonable scale shall accompany the application, and shall show the following details—

Sketch plans.

- (i) the main topographical features in and about the area applied for in such a manner as will enable the boundaries to be identified on the ground;
- (ii) an approximate estimate in square miles of the area applied for;
- (iii) such other information as will enable the area to be located on the topographical map of the district in which the area applied for is situated.

If the Commissioner is not satisfied with the adequacy of the sketch plan submitted, he may refuse to consider the application.

8. Every person who has applied for an exclusive prospecting licence and who is informed that his application will be granted shall forthwith—

On granting of application.

- (a) cause all boundaries not defined by natural features to be beaconed in the manner prescribed or in accordance with the directions of the Commissioner;

## PROCLAMATION NO. 15

## COLONY AND PROTECTORATE OF KENYA.

THE REGISTRATION OF DOMESTIC SERVANTS  
ORDINANCE, 1928.

## PROCLAMATION.

J. BYRNE.

L. S.

BY His Excellency Sir Joseph Aloysius Byrne, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, a Knight of Grace of the Venerable Order of the Hospital of Saint John of Jerusalem, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya.

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## EXCLUSIVE PROSPECTING LICENCES.

6. An application for an Exclusive Prospecting Licence shall be made to the Commissioner through the Inspector of Mines or Warden, in duplicate and in the Form (No. 6) set out in the First Schedule hereto, and the prescribed fees shall accompany the application. Application for Exclusive Prospecting Licence.

7. A sketch plan in duplicate on a reasonable scale shall accompany the application, and shall show the following details— Sketch plans.

- (i) the main topographical features in and about the area applied for in such a manner as will enable the boundaries to be identified on the ground;
- (ii) an approximate estimate in square miles of the area applied for;
- (iii) such other information as will enable the area to be located on the topographical map of the district in which the area applied for is situated.

If the Commissioner is not satisfied with the adequacy of the sketch plan submitted, he may refuse to consider the application.

8. Every person who has applied for an exclusive prospecting licence and who is informed that his application will be granted shall forthwith— On granting of application.

- (a) cause all boundaries not defined by natural features to be beaconed in the manner prescribed or in accordance with the directions of the Commissioner;

- (b) cause a survey of the area to be made, to the satisfaction of the Commissioner, by a licensed land surveyor, submitting the plan, field notes and computations of such survey (which shall become property of Government) to the Surveyor General for his examination and approval.

No exclusive Prospecting Licence shall be issued until the provisions of this Regulation shall have been complied with.

9. (1) The licensee shall, during the term of an Exclusive Prospecting Licence, keep cut and cleared of vegetation all or any of the boundary lines specified by the Commissioner for a distance of not less than 50 yards from the beacons defining those boundaries.

(2) During the term of the licence the licensee shall post and maintain on the land all such notices as are required by these Regulations showing clearly the situation and direction of all boundaries.

10. Every Exclusive Prospecting Licence shall follow as closely as may be the Form (No. 7) set out in the First Schedule hereto.

11. (1) Application for the renewal of an Exclusive Prospecting Licence shall be made through the Commissioner not later than two months before the date of expiration of such licence.

(2) When a licence holder who has so applied has, up to and including the date on which his licence is due to expire, not received any notification of the allowance or disallowance of his application he may continue his prospecting operations until he receives such notification.

(3) Where such application is allowed the licence shall be renewed as from the date of expiry.

(4) Where such application is disallowed the Commissioner shall nevertheless grant an extension of the licence for one month as from the date of expiry, and may in his discretion grant thereafter a further extension of thirty-one days to permit of the pegging grant being exercised.

## PART III.

## LOCATIONS.

12. (1) The holder of a Prospecting Right may peg off a mining location in the following manner: in the case of a lode location the shape of the claims shall be as nearly as circumstances permit, a rectangular parallelogram of which the length of the longer side shall not exceed thrice the length of the shorter side. In the case of an alluvial location, the width of each claim shall not be less than 50 feet.

(2) The holder of a Prospecting Right shall, on the completion of such pegging, post a notice (to be styled "the Registration Notice") on a substantial artificial support in a conspicuous and accessible place upon such location.

(3) Any such Registration Notice shall in respect of lode locations or alluvial locations follow as closely as may be the Forms (Nos. 8 and 10 respectively) set out in the First Schedule hereto.

13. For the purpose of these Regulations the area of mining locations applicable to—

(i) lode deposits shall be—

- (a) in the case of "precious minerals" a block of not more than ten claims (each claim having an area of not more than 20,000 square yards); and  
(b) in the case of "non-precious minerals" a block of not more than ten claims (each claim having an area of not more than 60,000 square yards);

(ii) alluvial deposits shall be a block of not more than ten claims (each claim having an area of not more than 10,000 square feet);

(iii) coal shall be the coal location having an area of not more than 200 acres.

14. The pegging of any location between sunset and sunrise is forbidden and shall not be deemed to confer any rights whatsoever.

For the purposes of this Regulation the term "pegging of a location" includes the posting of a Protection or Registration Notice.

15. (1) Every person pegging a mining location shall before he applies for registration of such location, erect upon every claim thereof four corner pegs.

Pegging of locations.

Registration notice.

Areas of mining locations.  
Lode.

Alluvial.

Coal.

Pegging: hours when pegging is forbidden.

Erection of corner pegs.

Vegetation.

Form of licence.

Renewal of licences.

Extension of licences.

- (b) cause a survey of the area to be made, to the satisfaction of the Commissioner, by a licensed land surveyor, submitting the plan, field notes and computations of such survey (which shall become the property of Government) to the Surveyor General for his examination and approval.

No exclusive Prospecting Licence shall be issued until the provisions of this Regulation shall have been complied with.

## Vegetation.

9. (1) The licensee shall, during the term of an Exclusive Prospecting Licence, keep cut and cleared of vegetation all or any of the boundary lines specified by the Commissioner for a distance of not less than 50 yards from the beacons defining those boundaries.

(2) During the term of the licence the licensee shall post and maintain on the land all such notices as are required by these Regulations showing clearly the situation and direction of all boundaries.

## Form of licence.

10. Every Exclusive Prospecting Licence shall follow as closely as may be the Form (No. 7) set out in the First Schedule hereto.

## Renewal of licences.

11. (1) Application for the renewal of an Exclusive Prospecting Licence shall be made through the Commissioner not later than two months before the date of expiration of such licence.

(2) When a licence holder who has so applied has, up to and including the date on which his licence is due to expire, not received any notification of the allowance or disallowance of his application he may continue his prospecting operations until he receives such notification.

(3) Where such application is allowed the licence shall be renewed as from the date of expiry.

## Extension of licences.

(4) Where such application is disallowed the Commissioner shall nevertheless grant an extension of the licence for one month as from the date of expiry, and may in his discretion grant thereafter a further extension of thirty-one days to permit of the pegging grant being exercised.

## PART III.

## LOCATIONS.

12. (1) The holder of a Prospecting Right may peg off a mining location in the following manner: in the case of a lode location the shape of the claims shall be as nearly as circumstances permit, a rectangular parallelogram of which the length of the longer side shall not exceed thrice the length of the shorter side. In the case of an alluvial location, the width of each claim shall not be less than 50 feet.

(2) The holder of a Prospecting Right shall, on the completion of such pegging, post a notice (to be styled "the Registration Notice") on a substantial artificial support in a conspicuous and accessible place upon such location.

(3) Any such Registration Notice shall in respect of lode locations or alluvial locations follow as closely as may be the Forms (Nos. 8 and 10 respectively) set out in the First Schedule hereto.

13. For the purpose of these Regulations the area of mining locations applicable to—

(i) lode deposits shall be—

- (a) in the case of "precious minerals" a block of not more than ten claims (each claim having an area of not more than 20,000 square yards); and  
(b) in the case of "non-precious minerals" a block of not more than ten claims (each claim having an area of not more than 60,000 square yards);

(ii) alluvial deposits shall be a block of not more than ten claims (each claim having an area of not more than 10,000 square feet);

(iii) coal shall be the coal location having an area of not more than 200 acres.

14. The pegging of any location between sunset and sunrise is forbidden and shall not be deemed to confer any rights whatsoever.

For the purposes of this Regulation the term "pegging of a location" includes the posting of a Protection or Registration Notice.

15. (1) Every person pegging a mining location shall before he applies for registration of such location, erect upon every claim thereof four corner pegs.

Pegging of locations.

Registration notice.

Areas of mining locations.  
Lode.

Alluvial.

Coal.

Pegging: hours when pegging is forbidden.

Erection of corner pegs.

(2) The following conditions must be fulfilled as regards the corner pegs—

- (a) they must be placed at all the points of intersection of the claim boundary lines (which must be straight);

Provided that where a peg by reason of its position, can be regarded as common to contiguous claims it may be reckoned as one peg in respect of each of such claims and may bear accordingly on its sides the required letters of the alphabet;

- (b) they must be marked A, B, C, D, consecutively;
- (c) they must be not less than three feet in height and, if constructed of wood, must measure not less than four inches in diameter;
- (d) one of them must bear the Registration Notice.

(3) Every Registration Notice shall have a heading with the words "Lode Location" or "Alluvial Location" as the case may be and shall contain the following particulars—

- (a) the number of the Prospecting Right;
- (b) the name of the pegger;
- (c) the date and hour when the pegs were erected;
- (d) the names of the witnesses (if any) to the erection of the pegs.

15A. Where any pegger is found to have pegged in excess of his claim, the Inspector may if he thinks fit, permit him to retain the area of such excess pegging, but he shall pay a registration fee of treble the amount of the fee ordinarily chargeable in respect of the ground so pegged in excess.

16. The holder of any location, with respect to which a Certificate of Registration has not been obtained, may (subject to any provisions to the contrary contained in these Regulations) at any time abandon such location, but prior to such abandonment shall remove all beacons, pegs, stakes and notices from such location and fill in all shafts, pits and trenches which are the result of prospecting operations.

17. (1) The holder of any mining location upon which a Registration Notice as provided in Regulation 12 (2) hereof has been posted shall, within a period of thirty days after the date of the posting of such Registration Notice, apply to the Warden who shall issue a Certificate of Registration of a mining location on payment of the registration fee in respect of each claim in such location.

- (2) The fees payable in respect of claim shall be—
  - (a) for a lode claim: Sh. 10.
  - (b) for an alluvial claim: Sh. 2.

Fees for claims.

(3) With every such application for a Certificate of Registration the applicant shall lodge for inspection or filing, as the case may be, with the Warden in whose district the mining location is situated, the following documents—

Documents to accompany application.

- (a) two copies of his Registration Notices and a plan in triplicate giving the dimensions in yards of the claims to be registered within the location, together with such detailed particulars and measurements as will enable the mining location to be located on the general maps of the district;
- (b) a certificate signed by the applicant to the effect that the copies of such notices are true copies, and that all the facts stated therein are true and correct;
- (c) a written statement of the principal mineral for which such location is to be exploited;
- (d) the Prospecting Right and (where such exists) any power of attorney or other instrument under whose terms the mining location has been pegged.

(4) Every Certificate of Registration shall be deemed to have been issued subject to the provisions of Regulation 19 hereof as to title.

18. The Warden shall upon the original registration of every location assign an official registered number to such location, and shall cause an entry thereof to be made in a book to be kept for the purpose. Such registered number shall be added, as soon as may be, to the particulars on the Registration Notice of the location.

Registered numbers.

19. (1) In all cases of dispute between peggers of locations as to the right and title to any particular location the principle of priority of title shall prevail, provided always that the prior title has not been abandoned.

Disputes as to titles.

(2) No complaint shall be entertained as to the validity of the pegging of any claims on a location in respect of which—

Limitation as to complaints.

- (a) the Certificate of Registration has been issued not less than two years prior to the date of such complaint;
- (b) there has been a transfer to a bona fide purchaser for value on a date not earlier than six months from the date of the issue of the Certificate of Registration.

Particulars on Registration Notice.

the case

Abandonment of unregistered locations.

Registration of mining locations.

(2) The following conditions must be fulfilled as regards the corner pegs—

(a) they must be placed at all the points of intersection of the claim boundary lines (which must be straight):

Provided that where a peg by reason of its position, can be regarded as common to contiguous claims it may be reckoned as one peg in respect of each of such claims and may bear accordingly on its sides the required letters of the alphabet;

(b) they must be marked A, B, C, D, consecutively;

(c) they must be not less than three feet in height and, if constructed of wood, must measure not less than four inches in diameter;

(d) one of them must bear the Registration Notice.

Particulars on Registration Notice.

(3) Every Registration Notice shall have a heading with the words "Lode Location" or "Alluvial Location" as the case may be and shall contain the following particulars—

(a) the number of the Prospecting Right;

(b) the name of the pegger;

(c) the date and hour when the pegs were erected;

(d) the names of the witnesses (if any) to the erection of the pegs.

15A. Where any pegger is found to have pegged in excess of his claim, the Inspector may if he thinks fit, permit him to retain the area of such excess pegging, but he shall pay a registration fee of treble the amount of the fee ordinarily chargeable in respect of the ground so pegged in excess.

Abandonment of unregistered locations.

16. The holder of any location, with respect to which a Certificate of Registration has not been obtained, may (subject to any provisions to the contrary contained in these Regulations) at any time abandon such location, but prior to such abandonment shall remove all beacons, pegs, stakes and notices from such location and fill in all shafts, pits and trenches which are the result of prospecting operations.

Registration of mining locations.

17. (1) The holder of any mining location upon which a Registration Notice as provided in Regulation 12 (2) hereof has been posted shall, within a period of thirty days after the date of the posting of such Registration Notice, apply to the Warden who shall issue a Certificate of Registration of a mining location on payment of the registration fee in respect of each claim in such location.

(2) The fees payable in respect of claim shall be—

Fees for claims.

(a) for a lode claim: Sh. 10.

(b) for an alluvial claim: Sh. 2.

(3) With every such application for a Certificate of Registration the applicant shall lodge for inspection or filing, as the case may be, with the Warden in whose district the mining location is situated, the following documents—

Documents to accompany application.

(a) two copies of his Registration Notices and a plan in triplicate giving the dimensions in yards of the claims to be registered within the location, together with such detailed particulars and measurements as will enable the mining location to be located on the general maps of the district;

(b) a certificate signed by the applicant to the effect that the copies of such notices are true copies, and that all the facts stated therein are true and correct;

(c) a written statement of the principal mineral for which such location is to be exploited;

(d) the Prospecting Right and (where such exists) any power of attorney or other instrument under whose terms the mining location has been pegged.

(4) Every Certificate of Registration shall be deemed to have been issued subject to the provisions of Regulation 13 hereof as to title.

18. The Warden shall upon the original registration of every location assign an official registered number to such location, and shall cause an entry thereof to be made in a book to be kept for the purpose. Such registered number shall be added, as soon as may be, to the particulars on the Registration Notice of the location.

Registered numbers.

19. (1) In all cases of dispute between peggers of locations as to the right and title to any particular location the principle of priority of title shall prevail, provided always that the prior title has not been abandoned.

Disputes as to titles.

(2) No complaint shall be entertained as to the validity of the pegging of any claims on a location in respect of which—

Limitation as to complaints.

(a) the Certificate of Registration has been issued not less than two years prior to the date of such complaint;

(b) there has been a transfer to a bona fide purchaser for value on a date not earlier than six months from the date of the issue of the Certificate of Registration.

It shall not be competent for any pegger who, after the conditions set out in paragraphs (a) and (b) hereof have been fulfilled, to peg off such a location or any portion thereof (irrespective of whether such pegging takes place prior to coming into operation of these Regulations or not) to allege that the provisions of the Mining Ordinance had not been duly complied with prior to the issue of the Certificate of Registration or prior to the transfer of the location, or in any way to question the legality of the pegging of any claims on such location.

Definition of "pegger".

For the purposes of this Regulation the word "pegger" means the person in whose name or on whose behalf a location is registered and includes each and every lawful successor in title to the rights acquired by such person.

Replacement of corner pegs with beacons.

20. (1) Within a period of four months from the date of the issue of a Certificate of Registration in respect of any location, all the external pegs demarcating the periphery of such location shall be replaced by stone beacons.

Beacons.

(2) Every such stone beacon shall be at least two feet high and four feet in diameter at the base, and in the centre of such beacon shall be solidly and securely fixed a peg in an upright position and standing not less than one foot above the top of such beacon.

Trenches.

(3) At each beacon or peg, a trench six feet in length and one foot in width and depth shall be dug in the alignment of the next beacon or peg: provided that on stony ground a wall of stones of the same dimensions may be built.

Notices.

(4) The peg of every stone beacon demarcating the periphery on a registered location shall bear a notice board or notice containing, in the order shown, the following particulars:—

- (a) A letter corresponding to the letter assigned to such peg in the Registration Notice.
- (b) The name of the lode and/or nature of the location.
- (c) The registered number of the location.
- (d) The date of the original registration of the location.
- (e) The office at which the location is registered.
- (f) The name or names of the holder, or holders.
- (g) The Protection Notice and Registration Notice shall be maintained until such time as any location or locations pegged within the areas covered by them have been permanently beaconsed in accordance with this Regulation.

21. Notice boards on which Protection or Registration Notices are posted, or which are fixed to pegs or beacons marking the boundaries of a location shall be at least twelve inches square. A notice shall be distinctly and legibly written, printed or painted, and all dates and times shall be pricked through the writing. No paper or other material liable to be rendered illegible by rain or exposure shall, except for purely temporary purposes, be deemed a proper marking.

Notice boards.

22. Any holder of any protection area, mining location or licence who shall fail to erect or to keep in proper order and in their proper position, his notices pegs and beacons, as prescribed by these Regulations, shall be liable on conviction to a fine not exceeding fifty pounds.

Penalties.

23. The holder of a gold lode location, if he can prove that any other mineral of economic value occurs in such location in such amount as to exceed in value the amount of gold contained therein, may apply for the conversion of the location into a location for the mineral predominating in value. The Commissioner shall thereupon issue a new Registration Certificate authorizing the holder to mine the minerals in respect of which application for conversion was made.

Conversion of mining locations.

24. (1) The holder of any location (other than a lode location) shall, after a period of thirty days has elapsed from the date of his application for registration, and unless he has been informed that registration has been refused, with due diligence, during the continuance of the claim, carry out or cause to be carried out prospecting or mining operations to the satisfaction of the Commissioner.

Development.

(2) The holder of a lode mining location shall for each year of the continuance of the location execute upon the area of each claim at least fourteen feet of development work of the nature set forth in the Second Schedule hereto, not less than half of which shall be completed in the first six months of each such year.

(3) Where the work done on any one claim is in excess of the prescribed amount of development such excess may be taken into account in reckoning the amount of development work required in respect of the remaining claims in the same location.

Excess on claims.

It shall not be competent for any pegger who, after the conditions set out in paragraphs (a) and (b) hereof have been fulfilled, to peg off such a location or any portion thereof (irrespective of whether such pegging takes place prior to or coming into operation of these Regulations or not) to allege that the provisions of the Mining Ordinance had not been duly complied with prior to the issue of the Certificate of Registration or prior to the transfer of the location, or in any way to question the legality of the pegging of any claims on such location.

Definition of "pegger".

For the purposes of this Regulation the word "pegger" means the person in whose name or on whose behalf a location is registered and includes each and every lawful successor in title to the rights acquired by such person.

Replacement of corner pegs with beacons.

20. (1) Within a period of four months from the date of the issue of a Certificate of Registration in respect of any location, all the external pegs demarcating the periphery of such location shall be replaced by stone beacons.

Beacons.

(2) Every such stone beacon shall be at least two feet high and four feet in diameter at the base, and in the centre of such beacon shall be solidly and securely fixed a peg in an upright position and standing not less than one foot above the top of such beacon.

Trenches.

(3) At each beacon or peg, a trench six feet in length and one foot in width and depth shall be dug in the alignment of the next beacon or peg: provided that on stony ground a wall of stones of the same dimensions may be built.

Notices.

(4) The peg of every stone beacon demarcating the periphery on a registered location shall bear a notice board or notice containing, in the order shown, the following particulars:—

- (a) A letter corresponding to the letter assigned to such peg in the Registration Notice.
- (b) The name of the lode and/or nature of the location.
- (c) The registered number of the location.
- (d) The date of the original registration of the location.
- (e) The office at which the location is registered.
- (f) The name or names of the holder, or holders.
- (g) The Protection Notice and Registration Notice shall be maintained until such time as any location or locations pegged within the areas covered by them have been permanently beaconsed in accordance with this Regulation.

21. Notice boards on which Protection or Registration Notices are posted, or which are fixed to pegs or beacons marking the boundaries of a location shall be at least twelve inches square. A notice shall be distinctly and legibly written, printed or painted, and all dates and times shall be pricked through the writing. No paper or other material liable to be rendered illegible by rain or exposure shall, except for purely temporary purposes, be deemed a proper marking.

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Penalties.

23. The holder of a gold lode location, if he can prove that any other mineral of economic value occurs in such location in such amount as to exceed in value the amount of gold contained therein, may apply for the conversion of the location into a location for the mineral predominating in value. The Commissioner shall thereupon issue a new Registration Certificate authorizing the holder to mine the minerals in respect of which application for conversion was made.

Conversion of mining locations.

24. (1) The holder of any location (other than a lode location) shall, after a period of thirty days has elapsed from the date of his application for registration, and unless he has been informed that registration has been refused, with due diligence, during the continuance of the claim, carry out or cause to be carried out prospecting or mining operations to the satisfaction of the Commissioner.

Development.

(2) The holder of a lode mining location shall for each year of the continuance of the location execute upon the area of each claim at least fourteen feet of development work of the nature set forth in the Second Schedule hereto, not less than half of which shall be completed in the first six months of each such year.

(3) Where the work done on any one claim is in excess of the prescribed amount of development such excess may be taken into account in reckoning the amount of development work required in respect of the remaining claims in the same location.

Excess on claims.

## Excess on locations.

(4) Where the work done on any location is in excess of the prescribed amount of development, the Commissioner may, in his discretion, permit such excess to be taken into account in reckoning the amount of development work required in respect of adjoining locations in the same ownership.

## Savings.

(5) Notwithstanding anything in this Regulation contained the Commissioner may, in his discretion, permit a location holder to pay the sum of one pound per claim in lieu of carrying out the development work prescribed for such claim, or may for good and sufficient reason permit a location holder to perform a smaller amount of development work than that prescribed or may extend for a period not exceeding six months the time in which such development to be completed.

## Development work while prospecting.

25. Prospecting work performed by the holder of a prospecting right on ground which is subsequently registered by him as a Mining Location may be included and reckoned in the amount of work necessary to obtain a Development Certificate.

## Renewal of locations.

26. (1) Application for the renewal of a location or part thereof shall be made through the Warden at least one month before the date of expiration thereof. When such application has been made and the holder has not been notified as to whether his application has been allowed before the date on which the location expires, he may continue his mining operations unless and until notified that his application is disallowed. Where the application is allowed the renewal shall date from the day on which the location would, but for such renewal, have expired.

## Fees.

(2) A fee of ten shillings shall be paid in respect of each renewal of a lode claim and a fee of two shillings in respect of each renewal of an alluvial claim.

(3) Every application for renewal shall be accompanied by a Certificate of Development which shall follow as closely as may be the Form (No. 14) set out in the First Schedule hereto.

## Transfer of locations.

27. The holder of a registered location may transfer the same or part thereof on payment of a registration fee of two shillings for each claim or part thereof contained in such location. Every such transfer shall be evidenced by the completion of a form which shall follow as closely as may be the Form (No. 15) set out in the First Schedule hereto.

26. (1) The holder of a Prospecting Right may apply to the Commissioner for any area, which shall be a rectangular parallelogram not exceeding three hundred acres in extent, to be certified as a "coal prospecting area". Every such application shall be accompanied by an affidavit verifying the fact that indications of the existence of coal have been discovered by the holder and by a sketch plan showing the locality and position of the area.

Coal locations prospecting.

(2) If it appears to the Commissioner that the plan submitted is satisfactory and that the area is open for prospecting he may issue a certificate (hereinafter called the "Coal Certificate") in respect of such area, and may cause a notice to be posted in the Warden's office reserving such area to the applicant for coal prospecting as against all other persons for a period of twelve months from the date of the issue of the Coal Certificate.

Coal certificates.

(3) When the Coal Certificate has been issued the holder of the Prospecting Right shall cause beacons to be erected on the area. The beacons shall be not less than three feet in height and shall be constructed of stones piled together about a stout iron pole or rod to which shall be affixed, at a height of not less than six feet above the ground, a notice board or plate. Upon such notice board or plate there shall be clearly and permanently painted or written the name of the holder and the number and the date of erection of the beacons.

Beacons: coal prospecting areas.

(4) Beacons shall be erected within ninety days from the date of the issue of the Coal Certificate and an affidavit verifying the fact that they have been erected shall be filed with the Warden. They shall, whenever possible be so erected as to make each corner beacon plainly visible from at least two of the other corner beacons; when this is not possible line beacons which are so visible shall be erected. At each beacon two trenches shall be dug as prescribed by Regulation 20 (3) hereof.

(5) When coal is discovered in the area within a period of twelve months from the date of the issue of the Coal Certificate, the holder may in any part thereof peg a coal location which shall in so far as circumstances permit be rectangular in form and such pegging shall protect the holder until the issue of a Registration Certificate. Not later than six months from the date of such pegging the holder shall submit to the Commissioner in duplicate a plan of the coal location, prepared by a surveyor, together with an affidavit. The plan shall plainly show the extent of the coal location

Discovery of coal.

Excess on locations.

(4) Where the work done on any location is in excess of the prescribed amount of development, the Commissioner may, in his discretion, permit such excess to be taken into account in reckoning the amount of development work required in respect of adjoining locations in the same ownership.

Savings.

(5) Notwithstanding anything in this Regulation contained the Commissioner may, in his discretion, permit a location holder to pay the sum of one pound per claim in lieu of carrying out the development work prescribed for such claim, or may for good and sufficient reason permit a location holder to perform a smaller amount of development work than that prescribed or may extend for a period not exceeding six months the time in which such development to be completed.

Development work while prospecting.

25. Prospecting work performed by the holder of a prospecting right on ground which is subsequently registered by him as a Mining Location may be included and reckoned in the amount of work necessary to obtain a Development Certificate.

Renewal of locations.

26. (1) Application for the renewal of a location or part thereof shall be made through the Warden at least one month before the date of expiration thereof. When such application has been made and the holder has not been notified as to whether his application has been allowed before the date on which the location expires, he may continue his mining operations unless and until notified that his application is disallowed. Where the application is allowed the renewal shall date from the day on which the location would, but for such renewal, have expired.

Fees.

(2) A fee of ten shillings shall be paid in respect of each renewal of a lode claim and a fee of two shillings in respect of each renewal of an alluvial claim.

(3) Every application for renewal shall be accompanied by a Certificate of Development which shall follow as closely as may be the Form (No. 14) set out in the First Schedule hereto.

Transfer of locations.

27. The holder of a registered location may transfer the same or part thereof on payment of a registration fee of two shillings for each claim or part thereof contained in such location. Every such transfer shall be evidenced by the completion of a form which shall follow as closely as may be the Form (No. 15) set out in the First Schedule hereto.

28. (1) The holder of a Prospecting Right may apply to the Commissioner for any area, which shall be a rectangular parallelogram not exceeding three hundred acres in extent, to be certified as a "coal prospecting area". Every such application shall be accompanied by an affidavit verifying the fact that indications of the existence of coal have been discovered by the holder and by a sketch plan showing the locality and position of the area.

(2) If it appears to the Commissioner that the plan submitted is satisfactory and that the area is open for prospecting he may issue a certificate (hereinafter called the "Coal Certificate") in respect of such area, and may cause a notice to be posted in the Warden's office reserving such area to the applicant for coal prospecting as against all other persons for a period of twelve months from the date of the issue of the Coal Certificate.

(3) When the Coal Certificate has been issued the holder of the Prospecting Right shall cause beacons to be erected on the area. The beacons shall be not less than three feet in height and shall be constructed of stones piled together about a stout iron pole or rod to which shall be affixed, at a height of not less than six feet above the ground, a notice board or plate. Upon such notice board or plate there shall be clearly and permanently painted or written the name of the holder and the number and the date of erection of the beacons.

(4) Beacons shall be erected within ninety days from the date of the issue of the Coal Certificate and an affidavit verifying the fact that they have been erected shall be filed with the Warden. They shall, whenever possible be so erected as to make each corner beacon plainly visible from at least two of the other corner beacons; when this is not possible line beacons which are so visible shall be erected. At each beacon two trenches shall be dug as prescribed by Regulation 20 (3) hereof.

(5) When coal is discovered in the area within a period of twelve months from the date of the issue of the Coal Certificate, the holder may in any part thereof peg a coal location which shall in so far as circumstances permit be rectangular in form and such pegging shall protect the holder until the issue of a Registration Certificate. Not later than six months from the date of such pegging the holder shall submit to the Commissioner in duplicate a plan of the coal location, prepared by a surveyor, together with an affidavit. The plan shall plainly show the extent of the coal location.

and the positions of the beacons erected and the affidavit shall be made by the holder verifying the fact that all the required beacons have been properly erected.

Beacons:  
coal locations.

(6) The beacons shall be not less than four feet in height, and shall be constructed of solid masonry; they shall be erected in number and manner as provided in sub-regulation (4) hereof and shall bear a notice board or plate upon which shall be clearly painted the nature of the location, the name of the registered owner and the date of registration. The beacons shall be connected by survey to trigonometrical stations, if any such exist in the neighbourhood.

Abandonment.

(7) When an owner fails to submit the plan referred to in sub-regulation (5) hereof within the period of six months therein provided such failure shall be deemed to constitute abandonment of the coal location and of all rights relating thereto; provided that the Commissioner may at his discretion extend the said period of six months by a further period of two months. Failure to submit the required plan before the conclusion of such extended period shall likewise be deemed to constitute abandonment of the coal location and of all rights relating thereto.

Endorsement  
of approval.

(8) When the required plan has been duly submitted in duplicate to the Commissioner and has been approved by him, a note of such approval shall be endorsed on the original and on the duplicate. Thereafter the original shall be retained in the Commissioner's office and the duplicate shall be returned to the holder.

Registration  
fee.

(9) As soon as the plan of a coal location has been approved a Certificate of Registration shall be granted by the Commissioner to the owner or holder of such location on payment of a fee of twenty shillings.

Form of  
certificate.

(10) Every such Certificate of Registration shall follow as closely as may be the Form (No. 13) set out in the First Schedule hereto. Such certificate shall protect the holder against all persons desirous of prospecting for coal in the location for a period of twelve months from the date of pegging.

Transfer.

(11) Upon the transfer of any coal location a new Certificate of Registration shall be issued by the Commissioner to the transferee and a fee of twenty shillings shall be charged for such new certificate in addition to any stamp duty leviable by law.

29. The holder of any lode or coal location may proceed to production after having given reasonable notice to the Commissioner of his intention to do so. Any holder who proceeds to production without having given such notice shall be liable to a fine of ten pounds for every day during which he is so in default.

Proceeding to  
production.

30. (1) The Commissioner, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land included in any location or licence or for securing a proper definition of the area included therein, may give notice to the holder of such location or licence that a survey is required to be made of the land included in such location or licence and that a plan thereof must be furnished to the Commissioner, and may require the cost of the survey and plan to be estimated as hereinafter provided. Thereupon such holder shall within the time specified in such notice deposit with the Commissioner such sum as may by the estimate of the Surveyor General be necessary to cover the cost of such survey and plan.

Survey may  
be required.

(2) As soon as conveniently may be, after payment of the sum demanded, the Surveyor General shall cause a proper survey of the land included in such location or licence to be made, and shall forward a plan thereof to the Commissioner together with a report in writing upon all matters which appear necessary to him, or upon which the Commissioner shall, by written instructions, have required him to report.

Surveyor  
General to  
report.

(3) In any case where a holder to whom notice has been given in pursuance of this Regulation fails to pay the amount demanded as the cost of such survey within the time specified the location or licence in respect of which such survey is required shall become liable to forfeiture.

Liability to  
forfeiture.

(4) The Commissioner or Warden authorized to hear suits under the Ordinance may, during the hearing of a suit before him, if it shall appear necessary, order any party to the suit to cause a survey and a plan to be made by a licensed land surveyor of any land which is the subject matter of a suit and may adjourn the hearing of the suit for such purpose. The Commissioner or Warden may make such order as to the payment of the costs of any such survey and plan as he may think fit.

Suits may be  
adjourned for  
survey.

(5) No person shall make a survey required to be made by the Ordinance or by any Regulation thereunder except under the instructions of the Surveyor General. Any plan which has not been passed and signed by the Surveyor General

Surveys to be  
made under  
instructions of  
Surveyor  
General.

and the positions of the beacons erected and the affidavit shall be made by the holder verifying the fact that all the required beacons have been properly erected.

Beacons :  
coal locations.

(6) The beacons shall be not less than four feet in height, and shall be constructed of solid masonry; they shall be erected in number and manner as provided in sub-regulation (4) hereof and shall bear a notice board or plate upon which shall be clearly painted the nature of the location, the name of the registered owner and the date of registration. The beacons shall be connected by survey to trigonometrical stations, if any such exist in the neighbourhood.

Abandonment.

(7) When an owner fails to submit the plan referred to in sub-regulation (5) hereof within the period of six months therein provided such failure shall be deemed to constitute abandonment of the coal location and of all rights relating thereto: provided that the Commissioner may at his discretion extend the said period of six months by a further period of two months. Failure to submit the required plan before the conclusion of such extended period shall likewise be deemed to constitute abandonment of the coal location and of all rights relating thereto.

Endorsement  
of approval.

(8) When the required plan has been duly submitted in duplicate to the Commissioner and has been approved by him, a note of such approval shall be endorsed on the original and on the duplicate. Thereafter the original shall be retained in the Commissioner's office and the duplicate shall be returned to the holder.

Registration  
fee.

(9) As soon as the plan of a coal location has been approved a Certificate of Registration shall be granted by the Commissioner to the owner or holder of such location on payment of a fee of twenty shillings.

Form of  
certificate.

(10) Every such Certificate of Registration shall follow as closely as may be the Form (No. 13) set out in the First Schedule hereto. Such certificate shall protect the holder against all persons desirous of prospecting for coal in the location for a period of twelve months from the date of pegging.

Transfer.

(11) Upon the transfer of any coal location a new Certificate of Registration shall be issued by the Commissioner to the transferee and a fee of twenty shillings shall be charged for such new certificate in addition to any stamp duty leviable by law.

29. The holder of any lode or coal location may proceed to production after having given reasonable notice to the Commissioner of his intention to do so. Any holder who proceeds to production without having given such notice shall be liable to a fine of ten pounds for every day during which he is so in default.

Proceeding to  
production.

30. (1) The Commissioner, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land included in any location or licence or for securing a proper definition of the area included therein, may give notice to the holder of such location or licence that a survey is required to be made of the land included in such location or licence and that a plan thereof must be furnished to the Commissioner, and may require the cost of the survey and plan to be estimated as hereinafter provided. Thereupon such holder shall within the time specified in such notice deposit with the Commissioner such sum as may by the estimate of the Surveyor General be necessary to cover the cost of such survey and plan.

Survey may  
be required.

(2) As soon as conveniently may be, after payment of the sum demanded, the Surveyor General shall cause a proper survey of the land included in such location or licence to be made, and shall forward a plan thereof to the Commissioner together with a report in writing upon all matters which appear necessary to him, or upon which the Commissioner shall, by written instructions, have required him to report.

Surveyor  
General to  
report.

(3) In any case where a holder to whom notice has been given in pursuance of this Regulation fails to pay the amount demanded as the cost of such survey within the time specified the location or licence in respect of which such survey is required shall become liable to forfeiture.

Liability to  
forfeiture.

(4) The Commissioner or Warden authorized to hear suits under the Ordinance may, during the hearing of a suit before him, if it shall appear necessary, order any party to the suit to cause a survey and a plan to be made by a licensed land surveyor of any land which is the subject matter of a suit and may adjourn the hearing of the suit for such purpose. The Commissioner or Warden may make such order as to the payment of the costs of any such survey and plan as he may think fit.

Suits may be  
adjourned for  
survey.

(5) No person shall make a survey required to be made by the Ordinance or by any Regulation thereunder except under the instructions of the Surveyor General. Any plan which has not been passed and signed by the Surveyor General

Surveys to be  
made under  
instructions of  
Surveyor  
General

or an officer acting under his authority shall not be received or acted upon by the Commissioner or any Warden, nor shall the making of a survey or the preparation of a plan be deemed to be a compliance with a notice requiring survey (given by an officer duly authorized in that behalf), unless the survey has been made under the instructions of the Surveyor General and the plan has been passed as aforesaid.

(6) The cost of a surface survey shall be estimated and charged in accordance with the scale of fees for the time being charged by the Survey Department for a survey for the purposes of a lease of Crown land.

31. (1) Where the holder of any registered location in accordance with the provisions of the Prospecting Right under which the location was acquired, is entitled to apply for a Certificate of Abandonment thereof, or of any portion thereof, he may apply in writing to the Commissioner. Any such holder upon satisfaction of the Commissioner by affidavit that he is so entitled, may obtain a Certificate of Abandonment as from the date of such affidavit and such certificate shall be deemed to constitute valid and sufficient proof of such abandonment. In the event of abandonment of a portion only of any location, the remainder thereof shall be re-beaconed according to the provisions of these Regulations.

(2) Any such Certificate of Abandonment shall follow as closely as may be the Form (No. 16) set out in the First Schedule hereto.

32. (1) The Commissioner, upon application by the holder of any registered location, and on the production of the certificate of its registration, may, at his discretion, cancel such certificate and such registration of such location without abandonment or forfeiture of such location resulting therefrom, and may cause to be issued to such holder at one and the same time as fresh Certificate of Registration in respect of the whole or any part of such location which shall have been previously beaconed off in the manner prescribed in these Regulations, assigning to it a fresh official number.

(2) Within a period of seven days from the date of issue of such Certificate of Registration, or within such period as the Commissioner may prescribe, all the beacons of the original location not being in use for the beaconing of the said part shall be removed by the holder of such location, and on the beacons of the said part the official number originally assigned to such location shall be replaced by the new official number assigned to such portion.

33. The ground covered by a location or licence which has expired shall again be open for pegging after the completion of a period of thirty days from the date of such expiry :

Expired locations and licences.

Provided that the holder of a location or licence which so expires shall not directly or indirectly through an agent or by any means whatsoever re-peg the ground covered by such location or licence until after the completion of a period of ninety days from the date of such expiry.

34. (1) Lists of registered locations or licences which have expired shall be posted on a board to be exhibited in some conspicuous place outside the office of the Warden in whose district the locations or licences were situated.

Lists of cancelled locations and licences.

(2) A list of registered locations, licences or leases which have been abandoned or forfeited shall be published from time to time in the Gazette and such list may contain particulars concerning the reasons for the abandonment or forfeiture of the said locations, licences or leases.

(3) Where any signed statement of abandonment is made by a registered holder of any location, licence or lease, the cancellation of such location, licence or lease shall be deemed to be of full force and effect as from the date of the receipt of such statement by the Commissioner.

Cancellation in cases of abandonment.

(4) Where any location, licence or lease is forfeited the cancellation of such location, licence or lease shall be deemed to be of full force and effect as from the date given in the Commissioner's notice of forfeiture.

Cancellation in cases of forfeiture.

## PART IV.

### MINING LEASES.

35. (1) The holder of any location may apply in Form 17 set out in the First Schedule hereto through the Commissioner for a lease covering the whole or any portion of his location and such additional land as may be required for residential and general mining purposes. He shall deposit with his application a plan showing the boundaries of the area applied for and the boundaries of his location, and the abutting areas in respect of which prospecting, mining or surface rights may have been granted. The holder shall further deposit with the Commissioner the last Certificate of Registration issued in connexion with such location, together with a written undertaking that he will defray the cost of survey and the cost of suitable plans for attachment to the lease.

Applications.

Fees.

Certificate of abandonment of registered location.

Cancellation of certificate of registration without abandonment.

or an officer acting under his authority shall not be received or acted upon by the Commissioner or any Warden, nor shall the making of a survey or the preparation of a plan be deemed to be a compliance with a notice requiring survey (given by an officer duly authorized in that behalf), unless the survey has been made under the instructions of the Surveyor General and the plan has been passed as aforesaid.

Fees.

(6) The cost of a surface survey shall be estimated and charged in accordance with the scale of fees for the time being charged by the Survey Department for a survey for the purposes of a lease of Crown land.

Certificate of abandonment of registered location.

31. (1) Where the holder of any registered location in accordance with the provisions of the Prospecting Right under which the location was acquired, is entitled to apply for a Certificate of Abandonment thereof, or of any portion thereof, he may apply in writing to the Commissioner. Any such holder upon satisfying the Commissioner by affidavit that he is so entitled, may obtain a Certificate of Abandonment as from the date of such affidavit and such certificate shall be deemed to constitute valid and sufficient proof of such abandonment. In the event of abandonment of a portion only of any location, the remainder thereof shall be re-beaconed according to the provisions of these Regulations.

(2) Any such Certificate of Abandonment shall follow as closely as may be the Form (No. 16) set out in the First Schedule hereto.

Cancellation of certificate of registration without abandonment.

32. (1) The Commissioner, upon application by the holder of any registered location, and on the production of the certificate of its registration, may, at his discretion, cancel such certificate and such registration of such location without abandonment or forfeiture of such location resulting therefrom, and may cause to be issued to such holder at one and the same time as fresh Certificate of Registration in respect of the whole or any part of such location which shall have been previously beaconed off in the manner prescribed in these Regulations, assigning to it a fresh official number.

(2) Within a period of seven days from the date of issue of such Certificate of Registration, or within such period as the Commissioner may prescribe, all the beacons of the original location not being in use for the beaconing of the said part shall be removed by the holder of such location, and on the beacons of the said part the official number originally assigned to such location shall be replaced by the new official number assigned to such portion.

33. The ground covered by a location or licence which has expired shall again be open for pegging after the completion of a period of thirty days from the date of such expiry: Expired locations and licences.

Provided that the holder of a location or licence which so expires shall not directly or indirectly through an agent or by any means whatsoever re-peg the ground covered by such location or licence until after the completion of a period of ninety days from the date of such expiry.

34. (1) Lists of registered locations or licences which have expired shall be posted on a board to be exhibited in some conspicuous place outside the office of the Warden in whose district the locations or licences were situated. Lists of cancelled locations and licences.

(2) A list of registered locations, licences or leases which have been abandoned or forfeited shall be published from time to time in the Gazette and such list may contain particulars concerning the reasons for the abandonment or forfeiture of the said locations, licences or leases.

(3) Where any signed statement of abandonment is made by a registered holder of any location, licence or lease, the cancellation of such location, licence or lease shall be deemed to be of full force and effect as from the date of the receipt of such statement by the Commissioner. Cancellation in cases of abandonment.

(4) Where any location, licence or lease is forfeited the cancellation of such location, licence or lease shall be deemed to be of full force and effect as from the date given in the Commissioner's notice of forfeiture. Cancellation in cases of forfeiture.

## PART IV.

## MINING LEASES.

35. (1) The holder of any location may apply in Form 17 set out in the First Schedule hereto through the Commissioner for a lease covering the whole or any portion of his location and such additional land as may be required for residential and general mining purposes. He shall deposit with his application a plan showing the boundaries of the area applied for and the boundaries of his location, and the abutting areas in respect of which prospecting, mining or surface rights may have been granted. The holder shall further deposit with the Commissioner the last Certificate of Registration issued in connexion with such location, together with a written undertaking that he will defray the cost of survey and the cost of suitable plans for attachment to the lease. Applications.

Affidavit to accompany application.

(2) The applicant for a lease of a location shall, with his application, file an affidavit setting forth that the pegs or beacons of the location have been bona fide erected and properly maintained and continued, and also, where possible naming all the adjoining locations or leases (if any).

Notice to be given.

(3) The Commissioner upon receipt of any such application, shall, at the expense of the applicant, cause a notice containing particulars of the application to be inserted once in the Gazette and three times (at intervals of not less than a week) in a local newspaper. The Commissioner shall give written notice of the application to all holders of adjoining locations and to all persons who, to his knowledge have or claim to have any interest in the land to which the application relates.

Objections.

(4) Objections in writing against any such application may be lodged with the Commissioner, by any person interested, at any time within a period of ninety days from the date of the last of the publications provided for in sub-regulation (3) hereof. No objection shall be received or considered which has not been lodged within the said period.

(5) Every such objection shall be heard and determined by the Commissioner, who shall make such order thereon as the justice of the case require. An appeal shall lie to the Governor from any such order of the Commissioner.

Granting of lease.

(6) Where no such objection has been lodged with the Commissioner within the prescribed time, or where such objection has been disallowed or has lapsed, and the requirements of this Regulation have been satisfactorily complied with, the Governor may issue to the applicant a lease. So soon as an applicant has been informed that a lease will be granted to him, the Commissioner shall cause the land to be surveyed at the cost of the applicant, and under the direction of the Surveyor General, and the plan of the area signed by the Surveyor General shall be attached to the lease.

Survey.

(7) Every such survey shall be lodged with the Surveyor General and shall become the property of the Government.

(8) The Commissioner shall retain a duplicate of every lease and of every plan issued by him and shall cause such duplicates to be filed and preserved in the Mining Register.

Form of lease.

(9) Every mining lease shall follow as closely as may be the Form (No. 18) set out in the First Schedule hereto.

(10) A lessee may, with the consent of the Governor, assign his lease. Any such assignment shall follow as closely as may be the Form (No. 19) set out in the First Schedule hereto. **Assignment.**

(11) A lessee may, with the consent of the Governor, surrender his lease. Any such surrender shall follow as closely as may be the Form (No. 20) set out in the First Schedule hereto. **Surrender.**

36. (1) Every lessee of a lode lease shall, for each year of the continuance of his lease, execute at least twenty-five feet of development work of the nature set forth in the Second Schedule in respect of every ten acres or portion thereof included in the area of the lease. **Lode leases: development.**

(2) Every lessee of an alluvial lease shall work the same to the satisfaction of the Commissioner. **Alluvial leases.**

37. Regulation No. 22 shall apply, *mutatis mutandis*, to leases. **Application.**

#### PART V.

##### GENERAL.

38. (1) Every lessee, and every holder of a location or of an exclusive prospecting licence, or his representative shall furnish the following prescribed returns and reports of his operations— **Returns and reports.**

(i) to the senior inspector of Mines (from producers only) : on or before the 14th day of each month complete returns covering the operations of the previous month in the Forms (Nos. 21 and 22) set out in the First Schedule here;

(ii) to the Commissioner of Mines—in January and July— a written statement setting forth—

- (a) the name of the lessee or holder;
- (b) the date and number of the lease, location or licence;
- (c) any change which may have been made in the appointment of the attorney, and, in the case of a company, in the officers of the company, during the preceding six months;
- (d) any change of address of the lessee, holder, attorney or officers;
- (e) the nature of the operations being conducted on the area of the lease, location or licence;

Affidavit to accompany application.

(2) The applicant for a lease of a location shall, with his application, file an affidavit setting forth that the pegs or beacons of the location have been bona fide erected and properly maintained and continued, and also, where possible naming all the adjoining locations or leases (if any).

Notice to be given.

(3) The Commissioner upon receipt of any such application, shall, at the expense of the applicant, cause a notice containing particulars of the application to be inserted once in the Gazette and three times (at intervals of not less than a week) in a local newspaper. The Commissioner shall give written notice of the application to all holders of adjoining locations and to all persons who, to his knowledge have or claim to have any interest in the land to which the application relates.

Objections.

(4) Objections in writing against any such application may be lodged with the Commissioner, by any person interested, at any time within a period of ninety days from the date of the last of the publications provided for in sub-regulation (3) hereof. No objection shall be received or considered which has not been lodged within the said period.

(5) Every such objection shall be heard and determined by the Commissioner, who shall make such order thereon as the justice of the case require. An appeal shall lie, to the Governor from any such order of the Commissioner.

Granting of lease.

(6) Where no such objection has been lodged with the Commissioner within the prescribed time, or where such objection has been disallowed or has lapsed, and the requirements of this Regulation have been satisfactorily complied with, the Governor may issue to the applicant a lease. So soon as an applicant has been informed that a lease will be granted to him, the Commissioner shall cause the land to be surveyed at the cost of the applicant, and under the direction of the Surveyor General, and the plan of the area signed by the Surveyor General shall be attached to the lease.

Survey.

(7) Every such survey shall be lodged with the Surveyor General and shall become the property of the Government.

(8) The Commissioner shall retain a duplicate of every lease and of every plan issued by him and shall cause such duplicates to be filed and preserved in the Mining Register.

Form of lease.

(9) Every mining lease shall follow as closely as may be the Form (No. 18) set out in the First Schedule hereto.

(10) A lessee may, with the consent of the Governor, assign his lease. Any such assignment shall follow as closely as may be the Form (No. 19) set out in the First Schedule hereto. **Assignment.**

(11) A lessee may, with the consent of the Governor, surrender his lease. Any such surrender shall follow as closely as may be the Form (No. 20) set out in the First Schedule hereto. **Surrender.**

36. (1) Every lessee of a lode lease shall, for each year of the continuance of his lease, execute at least twenty-five feet of development work of the nature set forth in the Second Schedule in respect of every ten acres or portion thereof included in the area of the lease. **Lode leases: development.**

(2) Every lessee of an alluvial lease shall work the same to the satisfaction of the Commissioner. **Alluvial leases.**

37. Regulation No. 22 shall apply, *mutatis mutandis*, to the following: **Application**

#### PART V.

##### GENERAL.

38. (1) Every lessee, and every holder of a location or of an exclusive prospecting licence, or his representative shall furnish the following prescribed returns and reports of his operations— **Returns and reports.**

- (i) to the senior inspector of Mines (from producers only) :
  - on or before the 14th day of each month complete returns covering the operations of the previous month in the Forms (Nos. 21 and 22) set out in the First Schedule here;
- (ii) to the Commissioner of Mines—in January and July—
  - a written statement setting forth—
    - (a) the name of the lessee or holder;
    - (b) the date and number of the lease, location or licence;
    - (c) any change which may have been made in the appointment of the attorney, and, in the case of a company, in the officers of the company, during the preceding six months;
    - (d) any change of address of the lessee, holder, attorney or officers;
    - (e) the nature of the operations being conducted on the area of the lease, location or licence;

- (f) the average number of non-natives and natives employed on the area in mining or prospecting during the preceding six months;
- (g) the amount paid in wages to persons actually engaged in mining or prospecting operations on the area of the lease, location or licence, or in supervising such operations during the preceding six months;
- (h) the nature and value of any machinery or plant brought on to or removed from the area since the previous return;
- (i) the kind and quality of minerals obtained during the preceding six months and the manner in which they have been disposed of;
- (j) the particulars of any death or accidents which may have occurred amongst the employees during the preceding six months;
- (k) amount expended in Kenya due to mining or prospecting;
- (l) any further particulars that the Commissioner may call for;
- (iii) to the Government Mining Engineer, not later than the 31st January in each year, a written statement showing the working costs of the mining or prospecting operations and the total tonnage of reserves proved on the area of lease, location or licence during the preceding year:
- (iv) (a) to the Senior Inspector of Mines, on the expiry of each period of six months starting from the date of registration of a location, or lease, a development return stating the number of development feet performed on each such location or lease: provided that in the case of a protection area the first development return shall be rendered after the expiry of five months;
- (b) upon receipt of a satisfactory development return a certificate of development will be issued by the inspector to the holder concerned on payment of a fee of one shilling for each location or lease. Such certificate shall follow as closely as may be the Form (No. 14) set out in the First Schedule to these Regulations;

- (c) no renewal of a claim will be considered by the Commissioner of Mines unless such a development certificate accompanies the application.
- (2) The returns required by this Regulation shall be signed and certified to be correct—
- (a) in the case of an individual lessee or holder resident in the Colony by the lessee or holder;
- (b) in the case of an individual lessee or holder not so resident, or in the case of a syndicate or company having its head office out of the Colony, by the resident attorney of the lessee or holder syndicate or company;
- (c) in the case of a syndicate or company having its head office in the Colony by the manager or secretary of the syndicate or company.

Returns to be certified.

39. All royalties shall be payable on demand to the Commissioner, who may, if so requested and after payment has been made, issue a permit to export the mineral on which royalty has been paid. Such export permit shall follow as closely as may be the Form (No. 23) set out in the First Schedule hereto.

Royalties.

40. (1) Royalties shall be payable at the following rates:—

Rates of royalties.

- (a) On gold: a royalty of five per cent on the gross sum realized from the gold won.
- (b) On other minerals, as prescribed by the Governor in Council from time to time by notice in the Gazette.
- (2) No minerals originating in the Colony shall be exported except upon production of the relative export permit to the Commissioner of Customs at the time of making entry for export. In the case of minerals mined elsewhere than in the Colony and passing through the Colony in transit for exportation such evidence of origin as the Commissioner of Customs may require shall be produced.

Export of minerals.

(3) Within six months of such export, or within such extended time as the Commissioner may allow, a sales account in respect of such minerals shall be produced to the Commissioner, and any adjustments which may be necessary to ensure payment of the full amount of royalty due shall be made.

- (f) the average number of non-natives and natives employed on the area in mining or prospecting during the preceding six months;
- (g) the amount paid in wages to persons actually engaged in mining or prospecting operations on the area of the lease, location or licence, or in supervising such operations during the preceding six months;
- (h) the nature and value of any machinery or plant brought on to or removed from the area since the previous return;
- (i) the kind and quality of minerals obtained during the preceding six months and the manner in which they have been disposed of;
- (j) the particulars of any death or accidents which may have occurred amongst the employees during the preceding six months;
- (k) amount expended in Kenya due to mining or prospecting;
- (l) any further particulars that the Commissioner may call for;
- (iii) to the Government Mining Engineer, not later than the 31st January in each year, a written statement showing the working costs of the mining or prospecting operations and the total tonnage of reserves proved on the area of lease, location or licence during the preceding year:
- (iv) (a) to the Senior Inspector of Mines, on the expiry of each period of six months starting from the date of registration of a location, or lease, a development return stating the number of development feet performed on each such location or lease: provided that in the case of a protection area the first development return shall be rendered after the expiry of five months;
- (b) upon receipt of a satisfactory development return a certificate of development will be issued by the inspector to the holder concerned on payment of a fee of one shilling for each location or lease. Such certificate shall follow as closely as may be the Form (No. 14) set out in the First Schedule to these Regulations;

- (c) no renewal of a claim will be considered by the Commissioner of Mines unless such a development certificate accompanies the application.
- (2) The returns required by this Regulation shall be signed and certified to be correct—
- (a) in the case of an individual lessee or holder resident in the Colony by the lessee or holder;
- (b) in the case of an individual lessee or holder not so resident, or in the case of a syndicate or company having its head office out of the Colony, by the resident attorney of the lessee or holder syndicate or company;
- (c) in the case of a syndicate or company having its head office in the Colony by the manager or secretary of the syndicate or company.
39. All royalties shall be payable on demand to the Commissioner, who may, if so requested and after payment has been made, issue a permit to export the mineral on which royalty has been paid. Such export permit shall follow as closely as may be the Form (No. 23) set out in the First Schedule hereto. Royalties.
40. (1) Royalties shall be payable at the following rates:— Rates of royalties.
- (a) On gold: a royalty of five per cent on the gross sum realized from the gold won.
- (b) On other minerals, as prescribed by the Governor in Council from time to time by notice in the Gazette.
- (2) No minerals originating in the Colony shall be exported except upon production of the relative export permit to the Commissioner of Customs at the time of making entry for export. In the case of minerals mined elsewhere than in the Colony and passing through the Colony in transit for exportation such evidence of origin as the Commissioner of Customs may require shall be produced. Export of minerals.
- (3) Within six months of such export, or within such extended time as the Commissioner may allow, a sales account in respect of such minerals shall be produced to the Commissioner, and any adjustments which may be necessary to ensure payment of the full amount of royalty due shall be made.

Books of accounts.

41. Save when expressly exempted by the Commissioner, every location holder or lessee shall keep proper books and accounts showing the expenses incurred and the profits earned, and the Commissioner or any official authorized by him shall have access at all times to such books and accounts and shall be entitled to make extracts therefrom.

Appointment of attorneys.

42. (1) Every lessee and every holder of an Exclusive Prospecting Licence or of a location who is not resident in the Colony or who intends to be temporarily absent from the Colony shall appoint some person resident in the Colony as his attorney with full powers to represent him during his absence from the Colony, in all matters relating to his lease, licence or location.

Appointment of attorney to represent corporations, etc.

(2) When any corporation or other body, whose registered or head office is outside the Colony, is a lessee or a holder of an Exclusive Prospecting Licence or location, such corporation or body shall at all times be represented by an attorney resident in the Colony and having full powers to represent such lessees or holders in all matters relating to their lease, licence or location.

Revocation or variation of powers.

(3) Every lessee or holder who gives a power of attorney as required by sub-Regulations (1) and (2) of this Regulation shall forthwith forward to the Commissioner a copy of such power of attorney and shall likewise on the revocation or variation of such power of attorney forthwith forward a copy of any document effecting such revocation or variation.

Fees, rents and royalties.

43. The fees set out in the Third Schedule hereto shall be paid in respect of the matters and things specified in that Schedule.

Stamp duty not required.

44. No affidavit or declaration required under these Regulations shall be liable to stamp duty.

Registration.

45. (1) The Governor may appoint a Registrar of Mines. The Registrar shall keep a register of mining leases and Exclusive Prospecting Licences and of documents assigning or transferring such leases or licences or any right, title or interest arising therefrom.

(2) The Registrar shall file in the register a copy of every lease or Exclusive Prospecting Licence.

(3) A register of claims and locations shall be kept in the Mines Office and a return of all duplicate Certificates of Registration shall be sent monthly to the Registrar of Mines.

(4) Any person desiring to apply for the registration of any document, assigning or transferring or surrendering or in any other way dealing with or affecting any mining lease, claim, location or Exclusive Prospecting Licence, or any right or interests under the same, shall send the original document, with a copy thereof and a copy of any plan attached to such document together with the prescribed fee, to the Registrar, with a request that the same shall be registered. The Registrar, having first satisfied himself that the copy of the original document and of the plan (if any) is correct, and that the requisite approval of the assignment transfer, surrender or other transaction has been obtained, and that the document if liable to stamp duty has been duly stamped, shall endorse on the document over his signature the word "Registered" together with the date on which the document was presented for registration, and shall return the document so endorsed to the person who shall have presented the same for registration, and shall file the copy in the Register.

(5) The Registrar or Warden shall, when application is made together with payment of the prescribed fees, allow searches to be made in any register at all reasonable times, and shall supply copies or extracts from any entry in the register or of any documents or certificates issued under the Ordinance.

46. Any person who commits any breach of any of the provisions of these Regulations for which a penalty is not expressly provided shall be liable to a fine of one hundred pounds, or to imprisonment for two months, or to both.

Penalties.

47. The Revised Mining Regulations, 1932, are hereby revoked.

Revocation.

By Command of His Excellency the Governor in Council.

Nairobi,  
6th February, 1934.

J. F. G. TROUGHTON,  
Clerk to the Executive Council.

## Books of accounts.

41. Save when expressly exempted by the Commissioner, every location holder or lessee shall keep proper books and accounts showing the expenses incurred and the profits earned, and the Commissioner or any official authorized by him shall have access at all times to such books and accounts and shall be entitled to make extracts therefrom.

## Appointment of attorneys.

42. (1) Every lessee and every holder of an Exclusive Prospecting Licence or of a location who is not resident in the Colony or who intends to be temporarily absent from the Colony shall appoint some person resident in the Colony as his attorney with full powers to represent him during his absence from the Colony, in all matters relating to his lease, licence or location.

## Appointment of attorney to represent corporations, etc.

(2) When any corporation or other body, whose registered or head office is outside the Colony, is a lessee or a holder of an Exclusive Prospecting Licence or location, such corporation or body shall at all times be represented by an attorney resident in the Colony and having full powers to represent such lessees or holders in all matters relating to their lease, licence or location.

## Revocation or variation of powers.

(3) Every lessee or holder who gives a power of attorney as required by sub-Regulations (1) and (2) of this Regulation shall forthwith forward to the Commissioner a copy of such power of attorney and shall likewise on the revocation or variation of such power of attorney forthwith forward a copy of any document effecting such revocation or variation.

## Fees, rents and royalties.

43. The fees set out in the Third Schedule hereto shall be paid in respect of the matters and things specified in that Schedule.

## Stamp duty not required.

44. No affidavit or declaration required under these Regulations shall be liable to stamp duty.

## Registration.

45. (1) The Governor may appoint a Registrar of Mines. The Registrar shall keep a register of mining leases and Exclusive Prospecting Licences and of documents assigning or transferring such leases or licences or any right, title or interest arising therefrom.

(2) The Registrar shall file in the register a copy of every lease or Exclusive Prospecting Licence.

(3) A register of claims and locations shall be kept in the Mines Office and a return of all duplicate Certificates of Registration shall be sent monthly to the Registrar of Mines.

(4) Any person desiring to apply for the registration of any document, assigning or transferring or surrendering or in any other way dealing with or affecting any mining lease, claim, location or Exclusive Prospecting Licence, or any right or interests under the same, shall send the original document, with a copy thereof and a copy of any plan attached to such document together with the prescribed fee, to the Registrar, with a request that the same shall be registered. The Registrar, having first satisfied himself that the copy of the original document and of the plan (if any) is correct, and that the requisite approval of the assignment transfer, surrender or other transaction has been obtained, and that the document if liable to stamp duty has been duly stamped, shall endorse on the document over his signature the word "Registered" together with the date on which the document was presented for registration, and shall return the document so endorsed to the person who shall have presented the same for registration, and shall file the copy in the Register.

(5) The Registrar or Warden shall, when application is made together with payment of the prescribed fees, allow searches to be made in any register at all reasonable times, and shall supply copies or extracts from any entry in the register or of any documents or certificates issued under the Ordinance.

46. Any person who commits any breach of any of the provisions of these Regulations for which a penalty is not expressly provided shall be liable to a fine of one hundred pounds, or to imprisonment for two months, or to both.

47. The Revised Mining Regulations, 1932, are hereby

Penalties.

Revocation.

By Command of His Excellency the Governor in Council.

Nairobi,

6th February, 1934.

J. F. G. TROUGHTON,  
Clerk to the Executive Council.

## FIRST SCHEDULE.

Form  
No.

1. Application for Prospecting Right (Regulation 2 (1)).
2. Prospecting Right (Regulation 2 (3)).
3. Protection Notice (Regulation 3 (1)).
4. Statement of Work and Application for Extension of the Rights conferred by a Protection Notice (Regulation 4 (2)).
5. Certificate of Extension of the Rights conferred by a Protection Notice (Regulation 4 (3)).
6. Application for Exclusive Prospecting Licence (Regulation 6).
7. Exclusive Prospecting Licence (Regulation 10).
8. Registration Notice: Lode Location (Regulation 12 (3)).
9. Certificate of Registration: Lode Location (Regulation 17 (1)).
10. Registration Notice: Alluvial Location (Regulation 12 (3)).
11. Certificate of Registration: Alluvial Location (Regulation 17 (1)).
12. Certificate of Coal Prospecting Area (Regulation 28 (2)).
13. Certificate of Registration: Coal Location (Regulation 28 (10)).
14. Development Certificate (Regulation 26 (3)).
15. Transfer of Claims or Locations (Regulation 27).
16. Certificate of Abandonment of Registered Location (Regulation 31 (2)).
17. Application for Mining Lease (Regulation 35 (1)).
18. Mining Lease (Regulation 35 (9)).
19. Assignment of Mining Lease (Regulation 35 (10)).
20. Surrender of Mining Lease (Regulation 35 (11)).
21. Monthly Return A (Regulation 38 (1) (i)).
22. Monthly Return B (Regulation 38 (1) (i)).
23. Export Permit (Regulation 39).
24. Memorandum of Complaint.
25. Notice of Complaint.

Form 1.

THE MINING ORDINANCE, 1933.  
(Regulation 2 (1)).

## APPLICATION FOR A PROSPECTING RIGHT.

To, the Commissioner of Mines.

1. Name of applicant.
2. Nationality of applicant.
3. Age of applicant.
4. Address in Kenya Colony at which notices, etc., may be served.
5. Whether the applicant intends to prospect on his own account, or as an employee of any other person.
6. If he is in the employ of any other person, the name and address of such person.
7. Whether he has previously made an application for a Prospecting Right or licence, and if so, whether any such application has been refused.
8. Whether the applicant or his employer (if any) has previously held any prospecting right, claim, location, licence or lease authorizing prospecting or mining in the Colony which has been revoked or forfeited.

I hereby declare the above particulars to be true, and that I have read and understood the Mining Ordinance, and Regulations at present in force.

Signature of Applicant.

Form 2.

THE MINING ORDINANCE, 1933.  
(Regulation 2 (3)).

## PROSPECTING RIGHT.

No. ....

The right, subject to the provisions of the Mining Ordinance, 1933, and of the Regulations thereunder now in force or which may come into force during the continuance of this right is hereby granted

to .....

(3) .....

(2) .....

for one year from the date hereof to prospect for minerals.

This ..... day of ....., 19.....

for Commissioner of Mines.

Fee: Sh. 20.

(1) Here insert name, address and description of the prospector.

(2) If the prospector is to use this right as employee on behalf of a company, partnership or individual, state name, address and description of employer here.

## FIRST SCHEDULE.

Form  
No.

1. Application for Prospecting Right (Regulation 2 (1)).
2. Prospecting Right (Regulation 2 (3)).
3. Protection Notice (Regulation 3 (1)).
4. Statement of Work and Application for Extension of the Rights conferred by a Protection Notice (Regulation 4 (2)).
5. Certificate of Extension of the Rights conferred by a Protection Notice (Regulation 4 (3)).
6. Application for Exclusive Prospecting Licence (Regulation 6).
7. Exclusive Prospecting Licence (Regulation 10).
8. Registration Notice: Lode Location (Regulation 12 (3)).
9. Certificate of Registration: Lode Location (Regulation 17 (1)).
10. Registration Notice: Alluvial Location (Regulation 12 (3)).
11. Certificate of Registration: Alluvial Location (Regulation 17 (1)).
12. Certificate of Coal Prospecting Area (Regulation 28 (2)).
13. Certificate of Registration: Coal Location (Regulation 28 (10)).
14. Development Certificate (Regulation 26 (3)).
15. Transfer of Claims or Locations (Regulation 27).
16. Certificate of Abandonment of Registered Location (Regulation 31 (2)).
17. Application for Mining Lease (Regulation 35 (1)).
18. Mining Lease (Regulation 35 (9)).
19. Assignment of Mining Lease (Regulation 35 (10)).
20. Surrender of Mining Lease (Regulation 35 (11)).
21. Monthly Return A (Regulation 38 (1) (i)).
22. Monthly Return B (Regulation 38 (1) (i)).
23. Export Permit (Regulation 39).
24. Memorandum of Complaint.
25. Notice of Complaint.

Form 1.

THE MINING ORDINANCE, 1933.  
(Regulation 2 (1).)

## APPLICATION FOR A PROSPECTING RIGHT.

To the Commissioner of Mines.

1. Name of applicant.
2. Nationality of applicant.
3. Age of applicant.
4. Address in Kenya Colony at which notices, etc., may be served.
5. Whether the applicant intends to prospect on his own account, or as an employee of any other person.
6. If he is in the employ of any other person, the name and address of such person.
7. Whether he has previously made an application for a Prospecting Right or licence, and if so, whether any such application has been refused.
8. Whether the applicant or his employer (if any) has previously held any prospecting right, claim, location, licence or lease authorizing prospecting or mining in the Colony which has been revoked or forfeited.

I hereby declare the above particulars to be true, and that I have read and understood the Mining Ordinance, and Regulations at present in force.

Signature of Applicant.

Form 2.

THE MINING ORDINANCE, 1933.  
(Regulation 2 (3).)

## PROSPECTING RIGHT.

No. ....

The right, subject to the provisions of the Mining Ordinance, 1933, and of the Regulations thereunder now in force or which may come into force during the continuance of this right is hereby granted to .....

(1) .....

(2) .....

for one year from the date hereof to prospect for minerals.

This ..... day of ....., 19.....

for Commissioner of Mines.

Fee: Sh. 20.

(1) Here insert name, address and description of the prospector.

(2) If the prospector is to use this right as employee on behalf of a company, partnership or individual, state name, address and description of employer here.

THE MINING ORDINANCE, 1933.  
(Regulation 3 (1).)

Form 3.

## PROTECTION NOTICE.

Notice is hereby given that the undersigned, being lawfully entitled to act under prospecting licence No. .... issued at the office of ..... at ..... hereby claims, for a period of thirty days from the undermentioned date of posting this notice, the exclusive right of prospecting on all ground open to prospecting within the area described by a radius of 500 yards from this notice.

Date and hour of posting notice .....

Signature .....

Signature of witness to posting this notice .....

THE MINING ORDINANCE, 1933.  
(Regulation 4 (2).)

Form 4.

STATEMENT OF WORK PERFORMED AND APPLICATION FOR  
EXTENSION OF THE RIGHTS CONFERRED  
BY PROTECTION NOTICE.

I hereby certify that I ..... holder of Prospecting Right No. .... issued at the office of ..... at ..... have completed the following work on the area covered by my Protection Notice erected on ....., 193....

(a) Trenches (1) .....

Pits .....

Shafts .....

Drives and cross-cuts .....

Drilling (mechanical) .....

Drilling (hand-auger) .....

(b) Any other method of prospecting .....

In virtue of having performed the above work, I hereby apply for an extension of ..... months to be granted in respect of the Protection Area covered by the above-mentioned Protection Notice.

Dated this ..... day of ....., 193....

(c) Fees enclosed: Sh. ....

Signature .....

Address .....

(1) Measurements to be given in Development Footage.

(2) The following fees are payable in respect of extensions of the rights conferred by a Protection Notice:—

(a) 1st month extension: Sh. 10.

(b) 2nd month extension: Sh. 20.

(c) 3rd month extension: Sh. 30.

(d) 4th month extension: Sh. 40.

(e) 5th month extension: Sh. 50.

THE MINING ORDINANCE, 1933.  
(Regulation 4 (3).)

Form 5.

CERTIFICATE OF EXTENSION OF THE RIGHTS CONFERRED  
BY A PROTECTION NOTICE.

## EXTENSION.

This is to certify that the Protection Area covered by this notice is hereby extended for a period of ..... months as from ....., 193....

Dated this ..... day of ....., 193....

Fees paid: .....

Miscellaneous Receipt No. ....

for Commissioner of Mines.

Form 3.

THE MINING ORDINANCE, 1933.  
(Regulation 3 (1).)

## PROTECTION NOTICE.

Notice is hereby given that the undersigned, being lawfully entitled to act under prospecting licence No. .... issued at the office of ..... at ..... hereby claims, for a period of thirty days from the undermentioned date of posting this notice, the exclusive right of prospecting on all ground open to prospecting within the area described by a radius of 500 yards from this notice.

Date and hour of posting notice .....

Signature .....

Signature of witness to posting this notice .....

Form 4.

THE MINING ORDINANCE, 1933.  
(Regulation 4 (2).)

STATEMENT OF WORK PERFORMED AND APPLICATION FOR  
EXTENSION OF THE RIGHTS CONFERRED  
BY PROTECTION NOTICE.

I hereby certify that I ..... holder of Prospecting Right No. .... issued at the office of ..... at ..... have completed the following work on the area covered by my Protection Notice erected on ....., 193.....

(a) Trenches (1) .....

Pits .....

Shafts .....

Drives and cross-cuts .....

Drilling (mechanical) .....

Drilling (hand-abger) .....

(b) Any other method of prospecting .....

In virtue of having performed the above work, I hereby apply for an extension of ..... months to be granted in respect of the Protection Area covered by the above-mentioned Protection Notice.

Dated this ..... day of ....., 193.....

(2) Fees enclosed: Sh. ....

Signature .....

Address .....

(1) Measurements to be given in Development Footage.

(2) The following fees are payable in respect of extensions of the rights conferred by a Protection Notice:

(a) 1st month extension: Sh. 10.

(b) 2nd month extension: Sh. 20.

(c) 3rd month extension: Sh. 30.

(d) 4th month extension: Sh. 40.

(e) 5th month extension: Sh. 50.

Form 5.

THE MINING ORDINANCE, 1933.  
(Regulation 4 (3).)

CERTIFICATE OF EXTENSION OF THE RIGHTS CONFERRED  
BY A PROTECTION NOTICE.

## EXTENSION.

This is to certify that the Protection Area covered by this notice is hereby extended for a period of ..... months as from ....., 193.....

Dated this ..... day of ....., 193.....

Fees paid: .....

Miscellaneous Receipt No. ....

for Commissioner of Mines.

Form 6.

THE MINING ORDINANCE, 1933.  
(Regulation 6.)

APPLICATION FOR AN EXCLUSIVE PROSPECTING LICENCE.  
(Accompanied by plan of the area applied for in accordance with  
Regulation 7.)

To the Commissioner of Mines (through the Inspector of  
Mines or Warden).

Date and hour of receipt by Inspector of Mines or Warden

1. Name of applicant .....
2. Nationality of applicant .....
3. Address in Kenya Colony at which notices, etc., may be  
served .....
4. Number of applicant's Prospecting Right .....
5. Name of company, corporation, syndicate or person (if any)  
represented by applicant .....
6. Position held by applicant in relation to or under such com-  
pany, corporation, syndicate or person .....
7. Approximate area (in square miles) .....
8. Minerals for which applicant desires to prospect .....
9. Statement of geographical position of the area and its position  
in regard to some town, village or river-crossing or junction  
in accordance with section 9 .....
10. Name and nationality of directors of company or syndicate  
(if any) .....
11. Amount of nominal capital and cash working capital .....
12. Is a copy of the memorandum and articles of association  
lodged with the Commissioner? If not, a copy must be  
enclosed herewith.
13. Remittance of Sh. .... enclosed herewith.
14. Programme of work submitted herewith .....

.....  
Signature of Applicant.

(Remarks on the application by the Warden or Inspector of Mines.)

Form 7.

THE MINING ORDINANCE, 1933.  
(Regulation 10.)

EXCLUSIVE PROSPECTING LICENCE.

No. ....

The Exclusive Licence, subject to the provisions of the Mining  
Ordinance, 1933, and of the Regulations thereunder now in force or  
which may come into force during the continuance of this licence or  
any renewal thereof, for one year from the ..... day of  
..... subject to the special conditions here-  
under written, is hereby granted to .....  
(here insert name, address and description of licensee) to prospect for  
minerals (or as the case may be) within the following limits: (here  
insert boundaries of area), as delineated approximately on the plan  
attached hereto and coloured .....

This ..... day of ....., 19.....

.....  
Governor.

SPECIAL CONDITIONS:  
.....  
.....

Fee: Sh. 150.

Registration Fee: Sh. 10.

Form 8.

THE MINING ORDINANCE, 1933.  
(Regulation 12 (3).)

REGISTRATION NOTICE.

(LODE LOCATION.)

Notice is hereby given that the undersigned, being lawfully  
entitled to act under Prospecting Right No. .... issued at  
the office of ..... at .....  
has, under the said right, pegged off a block of (0) .....  
lobe claims of the form shown below and in the position shown on  
the plan to be lodged with a copy of this notice at the office of the  
Warden at ..... on registration.

Form 6.

THE MINING ORDINANCE, 1933.  
(Regulation 6.)

APPLICATION FOR AN EXCLUSIVE PROSPECTING LICENCE.  
(Accompanied by plan of the area applied for in accordance with Regulation 7.)

To the Commissioner of Mines (through the Inspector of Mines or Warden).

Date and hour of receipt by Inspector of Mines or Warden

1. Name of applicant .....
2. Nationality of applicant .....
3. Address in Kenya Colony at which notices, etc., may be served .....
4. Number of applicant's Prospecting Right .....
5. Name of company, corporation, syndicate or person (if any) represented by applicant .....
6. Position held by applicant in relation to or under such company, corporation, syndicate or person .....
7. Approximate area (in square miles) .....
8. Minerals for which applicant desires to prospect .....
9. Statement of geographical position of the area and its position in regard to some town, village or river-crossing or junction in accordance with section 9 .....
10. Name and nationality of directors of company or syndicate (if any) .....
11. Amount of nominal capital and cash working capital .....
12. Is a copy of the memorandum and articles of association lodged with the Commissioner? If not, a copy must be enclosed herewith.
13. Remittance of Sh. .... enclosed herewith.
14. Programme of work submitted herewith .....

Signature of Applicant.

(Remarks on the application by the Warden or Inspector of Mines.)

Form 7.

THE MINING ORDINANCE, 1933.  
(Regulation 10.)

EXCLUSIVE PROSPECTING LICENCE.

No. ....

The Exclusive Licence, subject to the provisions of the Mining Ordinance, 1933, and of the Regulations thereunder now in force or which may come into force during the continuance of this licence or any renewal thereof, for one year from the ..... day of ....., subject to the special conditions hereunder written, is hereby granted to ..... (here insert name, address and description of licence) to prospect for minerals (or as the case may be) within the following limits: (here insert boundaries of area), as delineated approximately on the plan attached hereto and coloured .....

This ..... day of ..... 19.....

Governor.

SPECIAL CONDITIONS

Fee: Sh. 150.

Registration Fee: Sh. 10.

Form 8.

THE MINING ORDINANCE, 1933  
(Regulation 12 (3).)

REGISTRATION NOTICE.

(LODE LOCATION.)

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. .... issued at the office of ..... at ..... has, under the said right, pegged off a block of (0) ..... lode claims of the form shown below and in the position shown on the plan to be lodged with a copy of this notice at the office of the Warden at ..... on registration.

Date of completion of pegging .....

Attach or insert in space opposite a diagram showing the form and the position of all pegs and the points of the compass in reference to block, and the length of all lines.

CERTIFICATE.

I, ..... of ..... hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

Date .....

(1) Here insert the nature of minerals and number of claims pegged in the block.

Form 9.

THE MINING ORDINANCE, 1933.  
(Regulation 17 (1).)

CERTIFICATE OF REGISTRATION OF LODE LOCATION  
(BLOCK OF LODE CLAIMS.)

Official No. .... DISTRICT OFFICE,  
.....193.....

This is to certify that ..... is the registered holder of ..... lode claims comprising Location No. .... named ..... the situation of which is stated to be ..... and numbered ..... in my register for one year from (1)

.....  
for Commissioner of Mines.

(1) Here state date of completion of pegging.

Form 10.

THE MINING ORDINANCE, 1933.  
(Regulation 12 (3).)

REGISTRATION NOTICE.  
(ALLUVIAL LOCATION.)

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. .... issued at the office of ..... at ..... has pegged off a block of alluvial claims of the form shown below, and in the position shown on the plan to be lodged with this notice at the office of the Warden, at ..... on registration.

Date of completion of pegging .....

Attach or insert in space opposite a diagram showing the form of the location and position of all pegs and the points of the compass in reference to the claims and the length of each side.

CERTIFICATE.

I, ..... of ..... hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

Date .....

Form 11.

THE MINING ORDINANCE, 1933.  
(Regulation 17 (1).)

CERTIFICATE OF REGISTRATION OF ALLUVIAL LOCATION.  
(BLOCK OF ALLUVIAL CLAIMS.)

Official No. .... DISTRICT OFFICE,  
.....193.....

This is to certify that ..... is the registered holder of ..... alluvial claims comprising Location No. .... the situation of which is stated to be ..... and numbered ..... in my register for one year from (1)

.....  
for Commissioner of Mines.

(1) Here state date of completion of pegging.

Date of completion of pegging .....

Attach or insert in space opposite a diagram showing the form and the position of all pegs and the points of the compass in reference to block, and the length of all lines.

## CERTIFICATE.

I, ....., of ..... hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

Date .....

(1) Here insert the nature of minerals and number of claims pegged in the block.

Form 9.

THE MINING ORDINANCE, 1933.  
(Regulation 17 (1).)

CERTIFICATE OF REGISTRATION OF LODE LOCATION.  
(BLOCK OF LODE CLAIMS.)

Official No. .... DISTRICT OFFICE,  
.....193.....

This is to certify that ..... is the registered holder of ..... lode claims comprising Location No. .... named ..... the situation of which is stated to be ..... and numbered ..... in my register for one year from (1)

.....  
for Commissioner of Mines.

(1) Here state date of completion of pegging.

Form 10.

THE MINING ORDINANCE, 1933.  
(Regulation 12 (3).)

REGISTRATION NOTICE.  
(ALLUVIAL LOCATION.)

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. .... issued at the office of ..... at ..... has pegged off a block of alluvial claims of the form shown below, and in the position shown on the plan to be lodged with this notice at the office of the Warden, at ..... on registration.

Date of completion of pegging .....

Attach or insert in space opposite a diagram showing the form of the location and position of all pegs and the points of the compass in reference to the claims and the length of each side.

## CERTIFICATE.

I, ..... of ..... hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

Date .....

Form 11.

THE MINING ORDINANCE, 1933.  
(Regulation 17 (1).)

CERTIFICATE OF REGISTRATION OF ALLUVIAL LOCATION.  
(BLOCK OF ALLUVIAL CLAIMS.)

Official No. .... DISTRICT OFFICE,  
.....193.....

This is to certify that ..... is the registered holder of ..... alluvial claims comprising Location No. .... the situation of which is stated to be ..... and numbered ..... in my register for one year from (1)

.....  
for Commissioner of Mines.

(1) Here state date of completion of pegging.

Form 12.

THE MINING ORDINANCE, 1933.  
(Regulation 28 (2).)

## CERTIFICATE OF COAL PROSPECTING AREA.

Official No. .... OFFICE OF THE COMMISSIONER  
OF MINES.  
..... 193.....

This is to certify that .....  
having complied with Regulation 28 is hereby granted the sole right  
to prospect for coal for a period of one year commencing from the  
date of this certificate over an area described hereunder:—

Form 13.

THE MINING ORDINANCE, 1933.  
(Regulation 28 (10).)

## CERTIFICATE OF REGISTRATION OF COAL LOCATION.

Official No. ....  
..... 193.....

This is to certify that .....  
is the registered holder of a coal location, named .....  
the situation of which is stated  
to be .....  
for one year from (1).....

for Commissioner of Mines.

(1) Here state date of completion of pegging.

Form 14.

THE MINING ORDINANCE, 1933.  
(Regulation 26 (3).)

## DEVELOPMENT CERTIFICATE

This is to certify that .....  
of ..... has performed sufficient  
development for ..... on his  
protection area, claim(s), location(s), leases(s) Nos. (1).....

Remarks:—

Dated this ..... day of ..... 193.....

Fee paid: .....

Miscellaneous receipt No. ....

Inspector of Mines.

(1) State clearly whether Protection Area, Claim, Location, or Lease.

Form 15.

THE MINING ORDINANCE, 1933.  
(Regulation 27.)

## TRANSFER OF CLAIMS OR LOCATION.

I, ..... of .....  
in consideration of ..... paid to  
me by ..... do hereby  
transfer to him the following claims of my locat on No. ....  
claim(s) No(s)..... subject to all and  
singular the terms and conditions under which the said location and  
claims have been held by me, and I, .....  
of ..... do hereby accept the said  
claim(s), subject to the terms and conditions aforesaid.

Dated at ..... this ..... day of .....  
19.....

Transferor.

Witness:  
Occupation:  
Address:

Transferee.

Witness:  
Occupation:  
Address:Stamp duty: Sh. ....  
Registration fee: Sh. 2 for each claim.

Form 16.

THE MINING ORDINANCE, 1933.  
(Regulation 31 (2).)

## MINING LEASE.

CERTIFICATE OF ABANDONMENT OF REGISTERED  
LOCATION.Official No. .... OFFICE OF THE COMMISSIONER  
OF MINES, NAIROBI.  
..... 193.....

This is to certify that .....  
being the registered holder of ..... claims  
comprising location No. .... and numbered .....  
numbered ..... and named .....  
..... has abandoned such claims.

Commissioner of Mines.

Form 12.

THE MINING ORDINANCE, 1933.  
(Regulation 28 (2).)

CERTIFICATE OF COAL PROSPECTING AREA.

Official No. .... OFFICE OF THE COMMISSIONER  
OF MINES.  
.....193.....

This is to certify that .....  
having complied with Regulation 28 is hereby granted the sole right  
to prospect for coal for a period of one year commencing from the  
date of this certificate over an area described hereunder:—

Form 13.

THE MINING ORDINANCE, 1933.  
(Regulation 28 (10).)

CERTIFICATE OF REGISTRATION OF COAL LOCATION.

Official No. .... 193.....

This is to certify that .....  
is the registered holder of a coal location, named .....  
the situation of which is stated  
to be .....  
for one year from (1).....

.....  
for Commissioner of Mines.

(1) Here state date of completion of pegging

Form 14.

THE MINING ORDINANCE, 1933.  
(Regulation 26 (3).)

DEVELOPMENT CERTIFICATE.

This is to certify that .....  
of ..... has performed sufficient  
development for ..... on his  
protection area, claim(s), location(s), leases(s) Nos. (1).....

Remarks:—

Dated this ..... day of ..... 193.....  
Fee paid: .....  
Miscellaneous receipt No. ....

.....  
Inspector of Mines.

(1) State clearly whether Protection Area, Claim, Location, or Lease.

Form 15.

THE MINING ORDINANCE, 1933.  
(Regulation 27.)

TRANSFER OF CLAIMS OR LOCATION.

I, ..... of .....  
in consideration of ..... paid to  
me by ..... do hereby  
transfer to him the following claims of my locat on No. ....  
claim(s) No(s): ..... subject to all and  
singular the terms and conditions under which the said location and  
claims have been held by me, and I, .....  
of ..... do hereby accept the said  
claim(s), subject to the terms and conditions afor said.

Dated at ..... day of .....  
M .....

.....  
Transferor.

Witness:  
Occupation:  
Address: .....

.....  
Transferee.

Witness:  
Occupation:  
Address: .....

Stamp duty: Sh. ....  
Registration fee: Sh. 2 for each claim.

Form 16.

THE MINING ORDINANCE, 1933  
(Regulation 31 (2).)

MINING LEASE.

CERTIFICATE OF ABANDONMENT OF REGISTERED  
LOCATION.

Official No. .... OFFICE OF THE COMMISSIONER  
OF MINES, NAIROBI.  
.....193.....

This is to certify that .....  
being the registered holder of ..... claims  
comprising location No. .... and named .....  
numbered ..... has abandoned such claims.

.....  
Commissioner of Mines.

Form 17.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (1).)

## APPLICATION FOR A MINING LEASE.

To the Commissioner of Mines (through the Inspector of Mines or Warden).

Date and hour of receipt by Inspector of Mines or District Officer.....

1. Name of applicant .....
2. Nationality of applicant .....
3. Address in Kenya Colony at which notices, etc., may be served .....
4. Number of applicant's prospecting right and location(s) and office of registration. ....
5. Name of company or corporation, syndicate or person (if any) which the applicant represents .....
6. Position or appointment held by applicant in relation to, or under, such company, corporation, syndicate or person .....
7. Name, nationality and description of members or directors (if any) .....
8. Amount of nominal capital subscribed and cash working capital .....
9. Is a copy of the memorandum and articles of association of the syndicate, corporation or company lodged with the Commissioner of Mines? If not, a copy must be enclosed herewith. ....
10. Area .....
11. Kind of mining lease desired, and mineral to be mined.....
12. The length of term desired .....

Signature of Applicant.

Date ....., 19.....

(Remarks by Inspector of Mines or Warden.)

Form 18.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (9).)

## MINING LEASE.

No. ....

This lease is granted to (*here insert name, address and description of lessee*), for the purpose of mining (*here insert the mineral or minerals in respect of which the lease is granted*) in, under or upon (*here describe area with boundaries*) as the same is delineated and coloured ..... on the plan annexed hereto, for a term of ..... years from the ..... day of ....., 19....., at an annual rent of Sh. .... according to the true intent and meaning of the Mining Ordinance, 1933, and subject to the provisions thereof and of any Ordinance amending the same or substituted therefor, and to all Regulations now in force or which may come into force, under any of the said Ordinances, during the continuance of this lease and to the special conditions hereunder written.

Dated this ..... day of ....., 19.....

.....  
Governor.

Witness: .....  
Accepted

.....  
Lessee

Witness:  
Occupation:  
Address:

Fee: Sh. 100.  
Registration fee: Sh. 10.  
Stamp duty: Sh. ....

## SPECIAL CONDITIONS.

Form 19.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (10).)

## ASSIGNMENT OF MINING LEASE.

Whereas under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (or as the case may be) upon or under (*here describe area with boundaries, etc., as in original lease*) was on the ..... day of ....., 19....., granted to ..... for a term of ..... years from the date thereof, and duly registered in Vol. .... Folio ..... of the Register of Mining Leases:

Form 17.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (1).)

## APPLICATION FOR A MINING LEASE.

To the Commissioner of Mines (through the Inspector of Mines or Warden).

Date and hour of receipt by Inspector of Mines or District Officer.....

1. Name of applicant .....
2. Nationality of applicant .....
3. Address in Kenya Colony at which notices, etc., may be served .....
4. Number of applicant's prospecting right and location(s) and office of registration.....
5. Name of company or corporation, syndicate or person (if any) which the applicant represents .....
6. Position or appointment held by applicant in relation to, or under, such company, corporation, syndicate or person .....
7. Name, nationality and description of members or directors (if any) .....
8. Amount of nominal capital subscribed and cash working capital .....
9. Is a copy of the memorandum and articles of association of the syndicate, corporation or company lodged with the Commissioner of Mines? If not, a copy must be enclosed herewith.
10. Area .....
11. Kind of mining lease desired, and mineral to be mined.....
12. The length of term desired .....

Signature of Applicant.

Date ....., 19.....

(Remarks by Inspector of Mines or Warden.)

Form 18.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (9).)

## MINING LEASE.

No. ....

This lease is granted to (*here insert name, address and description of lease*), for the purpose of mining (*here insert the mineral or minerals in respect of which the lease is granted*) in, under or upon (*here describe area with boundaries*) as the same is delineated and coloured ..... on the plan annexed hereto, for a term of ..... years from the ..... day of ..... 19....., at an annual rent of Sh. .... according to the true intent and meaning of the Mining Ordinance, 1933, and subject to the provisions thereof and of any Ordinance amending the same or substituted therefor, and to all Regulations now in force or which may come into force, under any of the said Ordinances, during the continuance of this lease and to the special conditions hereunder written.

Dated this ..... day of ..... 19.....

Governor

Witness:

Accepted:

Lessee

Witness:

Occupation:

Address:

Fee: Sh. 100.

Registration fee: Sh. 10.

Stamp duty: Sh. ....

## SPECIAL CONDITIONS.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (10).)

Form 19.

## ASSIGNMENT OF MINING LEASE.

Whereas under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (*or as the case may be*) upon or under (*here describe area with boundaries, etc., as in original lease*) was on the ..... day of ..... 19....., granted to ..... for a term of ..... years from the date thereof, and duly registered in Vol. .... Folio ..... of the Register of Mining Leases:

Now these presents witness that in consideration of the sum of ..... the said lessee ..... doth hereby assign to ..... of ..... all his rights, title and interest in and under the said lease as from the ..... day of ..... for the remainder of the term thereof.

In witness, etc.,

.....  
Lessee.

Witness:  
Occupation:  
Address:

.....  
Assignee.

Witness:  
Occupation:  
Address:

Approved:

.....  
Governor.

Stamp duty: Sh. ....

Registration fee: Sh. 10.

THE MINING ORDINANCE, 1933.  
(Regulation 35 (11).)

SURRENDER OF MINING LEASE.

WHEREAS under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (or as the case may be) upon or under (here describe area with boundaries, etc., as in the original lease) was on the ..... day of ..... 19....., granted to ..... for a term of ..... years from the date thereof, and duly registered in Vol. .... Folio ..... of the Register of Mining Leases:

And whereas the said ..... desires to surrender the said lease, and the Governor is willing to accept such surrender:

Now these presents witness that the said ..... doth hereby surrender all his rights, title and interest in and under the said lease as from the ..... day of ..... 19.....

In witness, etc.,

Approved:

.....  
Governor.

Form 20.

Return "A".

Form 21.

PRODUCER'S MONTHLY RETURN FOR MINES OTHER THAN ALLUVIAL.  
(Regulation 38 (1) (i).)

(A separate form must be used for each claim, location or lease.)

- Month and year for which the return is being rendered ..... 193.....
- No. of mining unit (claim, location or lease) from which mineral produced <sup>(1)</sup>.....
- Name of mine of which the above unit forms a part .....
- Mining district in which the unit is situated .....
- Name of registered owner .....
- No. of tons of ore crushed <sup>(2)</sup>..... tons.
- No. of tons of ore treated <sup>(2)</sup>..... tons.
- Method of treatment <sup>(3)</sup>.....
- No. of tons of sand treated .....
- No. of tons of slimes treated .....
- Mineral recovered:
 

	from ore	from sands	from slimes	Totals
Gold	..... ozs.	..... ozs.	..... ozs.	..... ozs.
Silver	..... ozs.	..... ozs.	..... ozs.	..... ozs.
Other mineral (to be specified) <sup>(4)</sup>	.....	.....	.....	.....
- Approximate value, in weight of mineral, per ton of tailings .....
- Average grade of ore .....
- Percentage of recovery .....
- Depth from which mineral mined to nearest 50 feet ..... ft.
- Remarks .....
- Adjustment for month of ..... 193.....

(Difference between the declared and the true weight of mineral produced.)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this ..... day of ..... 193.....

Signed on behalf of owner.....

Position held by signatory.....

Address.....

(1) State clearly whether claim, location or lease.

(2) Long tons: 2,240 lb.

(3) E.g. smelting, amalgamation, cyanidation, etc.

(4) Tin should be given in lb. of concentrate; copper, lead and zinc in lb. of metal; other non-precious minerals in lb. of product as sold.

Note.—This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished. Failure to furnish this return renders claims, locations or leases liable to forfeiture.

Now these presents witness that in consideration of the sum of ..... the said lessee ..... doth hereby assign to ..... of ..... all his rights, title and interest in and under the said lease as from the ..... day of ..... for the remainder of the term thereof.

In witness, etc.,

.....  
Lessee.

Witness:  
Occupation:  
Address:

.....  
Assignee.

Witness:  
Occupation:  
Address:

Approved:

.....  
Governor.

Stamp duty: Sh. ....

Registration fee: Sh. 10.

Form 20.

THE MINING ORDINANCE, 1933.  
(Regulation 85 (11).)

SURRENDER OF MINING LEASE.

WHEREAS under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (or as the case may be) upon or under (here describe area with boundaries, etc., as in the original lease) was on the ..... day of ..... 19..... granted to ..... for a term of ..... years from the date thereof, and duly registered in Vol. .... Folio ..... of the Register of Mining Leases:

And whereas the said ..... desires to surrender the said lease, and the Governor is willing to accept such surrender:

Now these presents witness that the said ..... doth hereby surrender all his rights, title and interest in and under the said lease as from the ..... day of ..... 19.....

In witness, etc.,

Approved:

.....  
Governor.

Return "A".

Form 21.

PRODUCER'S MONTHLY RETURN FOR MINES OTHER THAN ALLUVIAL.  
(Regulation 85 (1) (i).)

(A separate form must be used for each claim, location or lease.)

1. Month and year for which the return is being rendered ..... 193.....
2. No. of mining unit (claim, location or lease) from which mineral produced <sup>(1)</sup>.....
3. Name of mine of which the above unit forms a part .....
4. Mining district in which the unit is situated .....
5. Name of registered owner .....
6. No. of tons of ore crushed <sup>(2)</sup>..... tons.
7. No. of tons of ore treated <sup>(2)</sup>..... tons.
8. Method of treatment <sup>(3)</sup>.....
9. No. of tons of sand treated .....
10. No. of tons of slimes treated .....
11. Mineral recovered:

	from ore	from sands	from slimes	Totals
Gold	..... ozs.	..... ozs.	..... ozs.	..... ozs.
Silver	..... ozs.	..... ozs.	..... ozs.	..... ozs.
Other mineral (to be specified) <sup>(4)</sup>	.....	.....	.....	.....

12. Approximate value, in weight of mineral, per ton of tailings .....
13. Average grade of ore .....
14. Percentage of recovery .....
15. Depth from which mineral mined to nearest 50 feet ..... ft.
16. Remarks .....
17. Adjustment for month of ..... 193.....

(Difference between the declared and the true weight of of mineral produced.)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this ..... day of ..... 193.....

Signed on behalf of owner.....

Position held by signatory.....

Address.....

(1) State clearly whether claim, location or lease.

(2) Long tons: 2,240 lb.

(3) E.g. smelting, amalgamation, cyanidation, etc.

(4) Tin should be given in lb. of concentrate; copper, lead and zinc in lb. of metal; other non-precious minerals in lb. of product-as sold.

Note.—This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished. Failure to furnish this return renders claims, locations or leases liable to forfeiture.

Return "B".

Form 22.

**PRODUCER'S MONTHLY RETURN FOR ALLUVIAL  
WORKINGS.**  
(Regulation 88 (1) (i).)

(A separate form must be used for each claim, location, licence or lease.)

1. Month and year for which this return is being rendered .....
2. Number of mining unit (claim, location, licence or lease) from which mineral produced <sup>(1)</sup> .....
3. Name of lake, river or stream covered by the above unit .....
4. Mining district in which the unit is situated .....
5. Name of registered owner .....
6. Number of cubic yards treated ..... cubic yards.
7. Method of treatment <sup>(2)</sup> .....
8. Mineral recovered:
  - Gold ..... ozs.
  - Silver ..... ozs.
  - Tin ..... ozs.
  - Other mineral (to be specified) ..... lb. of concentrate.
9. Average recovery per cubic yard .....
10. Remarks .....
11. Adjustment for month of ....., 193.....  
(Difference between the declared and the true weight of mineral produced.)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this ..... day of ....., 193.....

Signed on behalf of owner.....

Position held by signatory.....

Address .....

<sup>(1)</sup> State clearly whether claim, location, licence or lease.  
<sup>(2)</sup> E.g. hand sluicing, dredging, etc.

**Notes.**—This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished.

Failure to furnish this return renders claims, locations, licences or leases liable to forfeiture.

**THE MINING ORDINANCE, 1933.**  
(Regulation 39.)

**EXPORT PERMIT.**

Form 23.

No. ....

Permission is hereby granted to .....  
on behalf of ..... to export .....  
packages of <sup>(a)</sup> ..... containing <sup>(b)</sup> .....  
produced from the <sup>(c)</sup> ..... district, and marked .....  
on which royalty has been paid, or secured to the satisfaction of the  
Commissioner of Mines.

Dated this ..... day of ....., 193.....

.....  
Commissioner of Mines.

<sup>(a)</sup> Here state mineral. If gold, state whether reef or alluvial.  
<sup>(b)</sup> Quantity. Gold and silver in ounces; tin in lb. of concentrate; copper, lead and zinc in lb. of metal; other non-precious minerals in lb. of product as sold.  
<sup>(c)</sup> Mining district from which the mineral was produced.

Form 24.

**THE MINING ORDINANCE, 1933.**

**MEMORANDUM OF COMPLAINT.**

To the Warden of Mines.

A.B., of ....., complains of E.F.,  
of ....., and says .....

1. That, etc.

2. That, etc.

(Set forth the subject matter of the complaint in paragraphs.)

The complainant therefore prays .....  
(set forth relief sought) or such other further relief as shall be just.

The amount sought to be recovered so far as the demand is  
pecuniary is .....

Dated this ..... day of ....., 19.....

A B.

Return "B".

Form 22.

PRODUCER'S MONTHLY RETURN FOR ALLUVIAL  
WORKINGS.

(Regulation 88 (1) (i).)

(A separate form must be used for each claim, location, licence or lease.)

1. Month and year for which this return is being rendered .....
2. Number of mining unit (claim, location, licence or lease) from which mineral produced <sup>(1)</sup> .....
3. Name of lake, river or stream covered by the above unit .....
4. Mining district in which the unit is situated .....
5. Name of registered owner .....
6. Number of cubic yards treated ..... cubic yards.
7. Method of treatment <sup>(2)</sup> .....
8. Mineral recovered :
  - Gold ..... ozs.
  - Silver ..... ozs.
  - Tin ..... ozs.
  - Other mineral (to be specified) ..... lb. of concentrate.
9. Average recovery per cubic yard .....
10. Remarks .....
11. Adjustment for month of ....., 193.....  
(Difference between the declared and the true weight of mineral produced.)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this ..... day of ....., 193.....

Signed on behalf of owner.....

Position held by signatory.....

Address .....

<sup>(1)</sup> State clearly whether claim, location, licence or lease.

<sup>(2)</sup> E.g. hand sluicing, dredging, etc.

**Note.**—This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished.

Failure to furnish this return renders claims, locations, licences or leases liable to forfeiture.

Form 23.

THE MINING ORDINANCE, 1933.  
(Regulation 39.)

## EXPORT PERMIT.

No. ....

Permission is hereby granted to .....  
on behalf of ..... to export .....  
packages of <sup>(1)</sup> ..... containing <sup>(2)</sup> .....  
produced from the <sup>(3)</sup> ..... district, and marked .....  
on which royalty has been paid, or secured to the satisfaction of the  
Commissioner of Mines.

Dated this ..... day of ....., 193.....

.....  
Commissioner of Mines.

<sup>(1)</sup> Here state mineral. If gold, state whether reef or alluvial.

<sup>(2)</sup> Quantity. Gold and silver in ounces; tin in lb. of concentrate; copper, lead and zinc in lb. of metal; other non-precious minerals in lb. of product as sold.

<sup>(3)</sup> Mining district from which the mineral was produced.

Form 24.

## THE MINING ORDINANCE, 1933.

## MEMORANDUM OF COMPLAINT.

To the Warden of Mines.

A.B., of ..... complains of E.F.,  
of ..... and says .....

1. That, etc.

2. That, etc.

(Set forth the subject matter of the complaint in paragraphs.)

The complainant therefore prays .....  
(set forth relief sought) or such other further relief as shall be just.

The amount sought to be recovered so far as the demand is  
pecuniary is .....

Dated this ..... day of ....., 19.....

A B

Form 25.

## THE MINING ORDINANCE, 1933.

## NOTICE OF COMPLAINT TO DEFENDANT.

Complaint No. ....

To (insert name of the defendant) of .....

You are hereby summoned to appear before me at .....  
on the ..... day of ....., 19...., at .....  
o'clock in the ..... noon precisely, to answer the complaint a copy  
of which is sent herewith, of (insert name of complainant).

You may have a summons to compel the attendance of any  
witness or for the production of any books or documents, by applying  
at my office.

Given under my hand this ..... day of ....., 19....

Warden of Mines.

## SECOND SCHEDULE.

## DEVELOPMENT.

1. Development work shall include shafts, drives, crosscuts, winzes, raises, adits and bore-holes of a minimum diameter of seven-eighths of an inch, that are situated or extend beyond twenty feet from the point of entry and which distance shall be included in the development footage. It shall also consist of surface trenching, if of a minimum depth of three feet, and designed to trace a lode or prove a deposit and of hand-augering.

2. Development work need not be done upon a lode, but it is requisite that it shall be done with a view to actual development of a lode and that it shall be new work and not the restoration or clearing of development work previously done or of earlier workings.

3. Development returns shall be rendered in terms of the "development foot" which unit shall be calculated as follows:—

- (a) For hand-augering:  
Every three yards below the first two yards to count as  $\frac{1}{3}$  development foot.
- (b) For trenching:  
Every eighteen cubic yards to count as 1 development foot.
- (c) For all other work mentioned in sub-section 1:  
Every linear foot to count as 1 development foot.

## THIRD SCHEDULE.

	FEES.	Sh.
1. Prospecting right .....	.....	20
2. For first month extension of the rights conferred by a protection notice .....	.....	10
3. For second month extension of the rights conferred by a protection notice .....	.....	20
4. For third month extension of the rights conferred by a protection notice .....	.....	30
5. For fourth month extension of the rights conferred by a protection notice .....	.....	40
6. For fifth month extension of the rights conferred by a protection notice .....	.....	50
7. For registration of a lode claim .....	.....	10
8. For registration of an alluvial claim .....	.....	2
9. For transfer of a claim .....	.....	2
10. For renewal of a lode claim .....	.....	10
11. For renewal of an alluvial claim .....	.....	2
12. For registration of a coal location .....	.....	20
13. For transfer of a coal location .....	.....	20
14. For preparation of an exclusive prospecting licence .....	.....	150
15. For registration of an exclusive prospecting licence .....	.....	10
16. For transfer of an exclusive prospecting licence .....	.....	20
17. For preparation of a lease .....	.....	100
18. For registration of a lease .....	.....	10
19. For transfer of a lease .....	.....	10
20. For renewal of a lease .....	.....	40
21. For registration of a document for which no special provision is made .....	.....	20
22. Development certificate for each protection area, location or lease .....	.....	1
23. Fees in lieu of development for each claim or part thereof .....	.....	20
24. For search in register, for every half-hour or part thereof .....	.....	2
25. For copy of prospecting right, location certificates, or extract from any registered document, or register, for every 100 words or part thereof .....	.....	2
26. For extra carbon copy of or extract from any registered document or register, for every 100 words or part thereof .....	.....	1
27. On complaint .....	.....	2
28. For every notice to defendant .....	.....	2
29. For every order of the Commissioner .....	.....	5
30. For every witness summons .....	.....	2
31. Hearing fee .....	.....	10

Where no fees are prescribed, or where mileage allowance or allowances to witnesses are concerned the same fees or allowances as are payable in civil matters before Subordinate Courts as prescribed by the Rules of Court.

Form 25.

## THE MINING ORDINANCE, 1933.

## NOTICE OF COMPLAINT TO DEFENDANT.

Complaint No. ....

To (insert name of the defendant) of .....

You are hereby summoned to appear before me at .....  
 on the ..... day of ....., 19...., at .....  
 o'clock in the ..... noon precisely, to answer the complaint a copy  
 of which is sent herewith, of (insert name of complainant).

You may have a summons to compel the attendance of any  
 witness or for the production of any books or documents, by applying  
 at my office.

Given under my hand this ..... day of ....., 19....

.....  
Warden of Mines.

## SECOND SCHEDULE.

## DEVELOPMENT

1. Development work shall include shafts, drives, crosscuts, winzes, raises, adits and bore-holes of a minimum diameter of seven-eighths of an inch, that are situated or extend beyond twenty feet from the point of entry and which distance shall be included in the development footage. It shall also consist of surface trenching, if of a minimum depth of three feet, and designed to trace a lode or prove a deposit and of hand-augering.

2. Development work need not be done upon a lode, but it is requisite that it shall be done with a view to actual development of a lode and that it shall be new work and not the restoration or clearing of development work previously done or of earlier workings.

3. Development returns shall be rendered in terms of the "development foot" which unit shall be calculated as follows:—

- (a) For hand-augering:  
 Every three yards below the first two yards to count as  $\frac{1}{3}$  development foot.
- (b) For trenching:  
 Every eighteen cubic yards to count as 1 development foot.
- (c) For all other work mentioned in sub-section 1:  
 Every linear foot to count as 1 development foot.

## THIRD SCHEDULE.

## FEES.

	Sh.
1. Prospecting right .....	20
2. For first month extension of the rights conferred by a protection notice .....	10
3. For second month extension of the rights conferred by a protection notice .....	20
4. For third month extension of the rights conferred by a protection notice .....	30
5. For fourth month extension of the rights conferred by a protection notice .....	40
6. For fifth month extension of the rights conferred by a protection notice .....	50
7. For registration of a lode claim .....	10
8. For registration of an alluvial claim .....	2
9. For transfer of a claim .....	2
10. For renewal of a lode claim .....	10
11. For renewal of an alluvial claim .....	2
12. For registration of a coal location .....	20
13. For transfer of a coal location .....	20
14. For preparation of an exclusive prospecting licence .....	150
15. For registration of an exclusive prospecting licence .....	10
16. For transfer of an exclusive prospecting licence .....	20
17. For preparation of a lease .....	100
18. For registration of a lease .....	10
19. For transfer of a lease .....	10
20. For renewal of a lease .....	40
21. For registration of a document for which no special provision is made .....	20
22. Development certificate for a protection area, location or lease .....	1
23. Fees in lieu of development for each claim or part thereof .....	20
24. For search in register, for every half-hour or part thereof .....	2
25. For copy of prospecting right, location certificates, or extract from any registered document, or register, for every 100 words or part thereof .....	2
26. For extra carbon copy of or extract from any registered document or register, for every 100 words or part thereof .....	1
27. On complaint .....	2
28. For every notice to defendant .....	2
29. For every order of the Commissioner .....	5
30. For every witness summons .....	2
31. Hearing fee .....	10

Where no fees are prescribed, or where mileage allowance or allowances to witnesses are concerned the same fees or allowances as are payable in civil matters before Subordinate Courts as prescribed by the Rules of Court.

## GOVERNMENT NOTICE NO. 111

## THE BANKRUPTCY ORDINANCE, 1930.

## THE BANKRUPTCY RULES, 1927.

IN EXERCISE of the powers conferred upon them by section 118 and by section 162 of the Bankruptcy Ordinance, 1930, the following rules are made by the Rules Committee with the concurrence of the Governor in Council.

1. These Rules may be cited as the Bankruptcy (Amendment) Rules, 1934.

2. Rule 79 of the principal rules is amended by the addition thereto of the following sub-rule to follow after sub-rule 79 (2) :—

(3) The Registrar shall be the Taxing Officer, provided that the Official Receiver may exercise the duties of a taxing officer in relation to the bills and charges of managers, accountants, auctioneers, brokers and persons other than advocates, employed by trustees (other than the Official Receiver acting *ex officio* in that capacity) and whose employment has been duly sanctioned.

Dated at Nairobi this 8th day of January, 1934.

J. LUCIE SMITH  
*Acting Chief Justice.*

W. K. HORNE,  
 *Puisne Judge*

W. HARRAGIN,  
*Attorney General.*

W. M. KEATINGE,  
*Official Receiver.*

E. K. EGGIS,  
*Member of the Law Society  
of the Colony of Kenya.*

G. G. ATKINSON,  
*Member of the Mombasa Law Society.*

Approved

J. BYRNE,  
*Governor.*

## GOVERNMENT NOTICE NO. 67

## Re THE MINING ORDINANCE, 1931.

## REGULATIONS.

IN EXERCISE of the powers conferred upon him by section 101 of the Mining Ordinance, 1931, and all other powers thereunto enabling him, His Excellency the Governor in Council has been pleased to make the following Regulations :—

1. These Regulations may be cited as "the Mining (Safety) (Amendment) Regulations, 1934", and shall be read as one with the Mining (Safety) Regulations, 1932, hereinafter referred to as "the Principal Regulations".

2. The Principal Regulations are hereby amended by the addition immediately after Regulation II of the following Regulations :—

"11A. All vessels used for the treatment with acid on zinc, slime or the cyanide process shall be fitted with mechanical agitators and hoods or other appliances of such a nature that the fumes generated in such vessels shall be carried direct to the external air.

11B. An adequate supply of wholesome drinking water shall be provided in each testing room and assay office, and this supply shall be distinctly labelled 'Drinking water'.

11C. (a) Mercury, cyanide or other poisonous substances used in any mining or milling process shall be kept in a separate compartment specially set aside for the storage of such poisonous substances. The compartment shall be locked and shall be in the care of a person, other than a native, duly authorized by the manager.

(b) No person shall remove from a mine any mercury, cyanide or other poisonous substance without the written permission of the manager first had and obtained.

11D. No person employed in any mine shall clean amalgam without first covering his hands with gloves.

11E. In any process whereby the vaporization of mercury is made possible, due care shall be exercised that no person shall be exposed to the resultant fumes; and a warning shall be given to all persons in the vicinity that such process is in operation.

## GOVERNMENT NOTICE No. 111

## THE BANKRUPTCY ORDINANCE, 1930.

## THE BANKRUPTCY RULES, 1927.

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(3) The Registrar shall be the Taxing Officer, provided that the Official Receiver may exercise the duties of a taxing officer in relation to the bills and charges of managers, accountants, auctioneers, brokers and persons other than advocates employed by trustees (other than the Official Receiver acting *ex officio* in that capacity) and whose employment has been duly sanctioned.

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*Member of the Mombasa Law Society.*

Approved

J. BYRNE,  
*Governor*

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## GOVERNMENT NOTICE No. 67

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## REGULATIONS.

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1. These Regulations may be cited as "the Mining (Safety) (Amendment) Regulations, 1934", and shall be read as one with the Mining (Safety) Regulations, 1932, hereinafter referred to as "the Principal Regulations".

2. The Principal Regulations are hereby amended by the addition immediately after Regulation 11 of the following Regulations :—

11A. All vessels used for the treatment with acid on zinc, slime or the cyanide process shall be fitted with mechanical agitators and hoods or other appliances of such a nature that the fumes generated in such vessels shall be carried direct to the external air.

11B. An adequate supply of wholesome drinking water shall be provided in each testing room and assay office, and this supply shall be distinctly labelled "Drinking water".

11C. No Mercury, cyanide or other poisonous substances used in any mining or milling process shall be kept in a separate compartment specially set aside for the storage of such poisonous substances. The compartment shall be locked and shall be in the care of a person, other than a native, duly authorized by the manager.

(b) No person shall remove from a mine any mercury, cyanide or other poisonous substance without the written permission of the manager first had and obtained.

11D. No person employed in any mine shall clean amalgam without first covering his hands with gloves.

11E. In any process whereby the vaporization of mercury is made possible, due care shall be exercised that no person shall be exposed to the resultant fumes; and a warning shall be given to all persons in the vicinity that such process is in operation.

11F. A manager shall provide for an adequate watch to be kept on all artificial constructions on his mine or workings for conserving water or workings which may cause water to converge or accumulate, and shall give notice without delay to the managers, or their representatives, of all mines or workings situated below such construction, of any possibility of flooding by reason of such construction.

11G. No person shall construct any catchment area or dam or any other construction for the purpose of conserving water, or any cyanide plant unless he has submitted to the Government Mining Engineer plans and specifications giving full details of the proposed construction and has obtained the approval of the Government Mining Engineer to such construction.

11H. Any slime dam in the neighbourhood of any building, thoroughfare or public road or railway shall be so constructed as not to endanger life or limb or to cause damage to property."

3. The Principal Regulations are hereby amended by the addition of the following Regulation as Regulation 52A.

"52A. When tailings are used for filling worked-out areas underground, the moisture content in such tailings and the liquid draining therefrom shall not have a higher cyanide content than 0.005 per cent expressed as cyanide or potassium."

4. Regulation 69 of the Principal Regulations is hereby revoked and the following substituted therefor:—

"69. No person who is under the influence of alcohol or no person who owing to the loss of a limb or any other physical deformity which may render or is likely to render him incapable of taking care of himself or of persons under his charge, shall be allowed to enter a mine or to be in proximity to any working place on the surface or near to any machinery in motion within any mining property; and any person who may have entered a mine or who may be found in any working place above or below ground when he is under the influence of alcohol shall be deemed to be guilty of an offence against these Regulations. Such person may be arrested by a manager or a person duly approved by him, and on such arrest shall be handed over to the police."

5. Paragraph (b) of Regulation 92 of the Principal Regulations is hereby amended by the deletion of the word "opper" which occurs in the second line thereof.

6. The Principal Regulations are hereby amended by the addition of the following Regulation as Regulation 109A:—

"109A. The exhaust from any steam-driven pump or other machinery shall be led to the surface before being allowed to escape; provided that an Inspector of Mines may permit such machinery to exhaust into abandoned workings if he is satisfied that such workings have no connexion with the active operations of the mine nor act as a regular or emergency outlet from the mine."

By Command of His Excellency the Governor in Council,  
Nairobi,

12th January, 1934.

J. F. G. TROUGHTON,  
Clerk to the Executive Council.

GOVERNMENT NOTICE NO. 68

THE PUBLIC TRAVEL AND ACCESS ROADS  
ORDINANCE

(Cap. 113 of the Revised Edition)

AND

THE REVISED EDITION OF THE LAWS  
(OPERATION) ORDINANCE, 1926.

NOTICE.

*Kiu-Kima Road.*  
*Ulu-Machakos Road.*  
*Konza East Road.*  
*Mua Hills Road.*  
*Lukenyu Road.*

WHEREAS by section 8 of the Public Travel and Access Roads Ordinance (Chapter 113 of the Revised Edition) as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, it is enacted that whenever it is made to appear to the Governor that requirements exist for the establishment, alteration or cancellation of a line of public travel, or the conversion of a road of access into a line of public travel, the Governor may, by order published in the Gazette, dedicate a line of public travel which shall be clearly

11f. A manager shall provide for an adequate watch to be kept on all artificial constructions on his mine or workings for conserving water or workings which may cause water to converge or accumulate, and shall give notice without delay to the managers, or their representatives, of all mines or workings situated below such construction, of any possibility of flooding by reason of such construction.

11g. No person shall construct any catchment area or dam or any other construction for the purpose of conserving water, or any cyanide plant unless he has submitted to the Government Mining Engineer plans and specifications giving full details of the proposed construction and has obtained the approval of the Government Mining Engineer to such construction.

11h. Any slime dam in the neighbourhood of any building, thoroughfare or public road or railway shall be so constructed as not to endanger life or limb or to cause damage to property."

3. The Principal Regulations are hereby amended by the addition of the following Regulation as Regulation 52a.

"52a. When tailings are used for filling worked-out areas underground, the moisture content in such tailings and the liquid draining therefrom shall not have a higher cyanide content than 0.005 per cent expressed as cyanide or potassium."

4. Regulation 69 of the Principal Regulations is hereby revoked and the following substituted therefor:—

"69. No person who is under the influence of alcohol or no person who owing to the loss of a limb or any other physical deformity which may render or is likely to render him incapable of taking care of himself or of persons under his charge, shall be allowed to enter a mine or to be in proximity to any working place on the surface or near to any machinery in motion within any mining property; and any person who may have entered a mine or who may be found in any working place above or below ground when he is under the influence of alcohol shall be deemed to be guilty of an offence against these Regulations. Such person may be arrested by a manager or a person duly approved by him, and on such arrest shall be handed over to the police."

5. Paragraph (b) of Regulation 92 of the Principal Regulations is hereby amended by the deletion of the word "copper" which occurs in the second line thereof.

6. The Principal Regulations are hereby amended by the addition of the following Regulation as Regulation 109a:—

"109a. The exhaust from any steam-driven pump or other machinery shall be led to the surface before being allowed to escape; provided that an Inspector of Mines may permit such machinery to exhaust into abandoned workings if he is satisfied that such workings have no connexion with the active operations of the mine nor act as a regular or emergency outlet from the mine."

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described in such order, and from such date of publication such line of public travel shall be absolutely dedicated to the public as a public road within the meaning of any law now or hereafter in force, and such public road shall be of such width as the Governor shall direct.

And whereas it has been made to appear to the Governor that requirements exist for the cancellation of the public road described in the First Schedule hereto.

And whereas it has been further made to appear to the Governor that requirements exist for the establishment of the lines of public travel described in the Second Schedule hereto.

Now, therefore, in exercise of the powers conferred upon him by the said section, and with the concurrence of the Machakos District Road Board, His Excellency the Governor has been pleased to order that the said public road described in the First Schedule hereto and the notice gazetted it be hereby cancelled, and the said lines of public travel described in the Second Schedule hereto be dedicated as public roads for the purposes of the said Ordinance, and that such public roads shall be 120 feet wide and that the centres of such public roads shall be coincident with the centre lines of the constructed motor roads.

Government Notices Nos. 775-779 inclusive, of the 30th November, 1933, are hereby cancelled.

By Command of His Excellency the Governor.

Nairobi,

13th January, 1934.

H. L. G. GURNEY,  
*for Colonial Secretary.*

### FIRST SCHEDULE.

#### CANCELLATION.

The public road hereby cancelled is that established by Government Notice No. 325 of the 31st day of July, 1926, and as shown by a firm thick line on the plan marked P.W.D. No. 3782 filed at the Head Office of the Public Works Department, Nairobi, and commencing at a point on the Athi River-Machakos Road on Farm No. 350, traversing Farms Nos. 350, 352, 354, 1414, 1413, 1412, 357, 1416, 1419, 356, 1420, 1422/3, 1422/1, 1423/2, 1423/1 and thence on Crown lands to the point of junction with the road from Machakos to Donyo Sabuk known as the District Commissioner's Road.

described in such order, and from such date of publication such line of public travel shall be absolutely dedicated to the public as a public road within the meaning of any law now or hereafter in force, and such public road shall be of such width as the Governor shall direct.

And whereas it has been made to appear to the Governor that requirements exist for the cancellation of the public road described in the First Schedule hereto.

And whereas it has been further made to appear to the Governor that requirements exist for the establishment of the lines of public travel described in the Second Schedule hereto.

Now, therefore, in exercise of the powers conferred upon him by the said section, and with the concurrence of the Machakos District Road Board, His Excellency the Governor has been pleased to order that the said public road described in the First Schedule hereto and the notice gazetted it be hereby cancelled, and the said lines of public travel described in the Second Schedule hereto be dedicated as public roads for the purposes of the said Ordinance, and that such public roads shall be 120 feet wide and that the centres of such public roads shall be coincident with the centre lines of the constructed motor roads.

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C. O.

23061/34. Kenya.

Pe 66  
274

Mr. Davies. 5/3.  
Mr. Freeston. 6.  
Mr. Roberts-Wray. 6.  
Mr. Flood. 6  
Mr. Parkinson.

Mr. Tomlinson.

X Sir C. Bottomley. 7.3.

Sir J. Shuckburgh.

+ Permt. U.S. of S. 7/3

Parly. U.S. of S.

Secretary of State.

AMSON '11

Downing Street.

March, 1934.

Sir,

I have the honour to

acknowledge the receipt of your

(1) despatch No.22 of the 9th of January,

and to inform you that His Majesty

will not be advised to exercise his

power of disallowance in respect of

Ordinance No. LXI of 1933 entitled

An Ordinance to Consolidate and Amend

the Law relating to Mining.

2. The reference to "claims"

in section 14(6) of the Ordinance

seems to have been included through

inadvertence; an error is also observed

in the ninth line of section 36 where

the words "or the" have been inserted

between

DRAFT. for conson.

K E N Y A.

NO. 186

GOV.

FURTHER ACTION.

the words "former" and "holder";

tion 24" in section 76 should apparently

section 23".

I am in some doubt ~~and~~ whether, in

th line of section 91, the word "and"

print for the word "or" or not; but whether

the case or not the section as it stands would

to admit of many of the evils of the truck

and I shall accordingly be glad if an early

ity may be taken to amend it so as to exclude

sibility of an employer's supplying goods, at

discretion, instead of the cash wages which the

e has earned.

I have, etc.

(Signed) PLYMOUTH

C. O.

Mr. Davies 5/3

Mr. Freeman 6

Mr. Roberts-Wray

Mr. Tomlinson. Hand

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

**DRAFT.** for conson.

KENYA

No.

Governor

20061/34 Kenya

See fair copy

March 1934.

Sir,

I have etc. to acknowledge  
the receipt of your despatch  
(1) No. 22 of the 9th of January, and  
to inform you that His Majesty  
will not be advised to exercise  
his power of disallowance in  
respect of Ordinance No. LXI of  
1933 entitled "An Ordinance to  
Consolidate and Amend the Law  
relating to Mining".

2. The reference to "claims"  
of the Ordinance  
in section 14(6) seems to have  
been included <sup>through</sup> by inadvertence;  
and <sup>also</sup> an error is observed in the ninth  
of section 36 where the words "or the"  
have been <sup>inserted</sup> unintentionally retained  
between the words "former" and  
"holder"

**FURTHER ACTION.**

*in section 6*  
and "section 24" / should  
alternately read "section 23"

"holder"; <sup>These</sup> ~~two~~ sections  
might be appropriately amended  
when a convenient opportunity  
occurs.

If they amend 5.91 no  
doubt they will correct  
them too.  
*T. J. [Signature]*

3. Section 91 as it stands would  
appear to admit of many of the evils  
of the truck system, <sup>and</sup> ~~but~~ it is  
possible that the word "and" in the  
sixth line is a misprint for the  
word "for". In any case I should be  
glad if an early opportunity could  
be taken to amend this section.

I have etc.

3. I am in some doubt as to  
whether, in the sixth line of  
Section 91, the word 'and' is  
a misprint for the word 'for'  
or not; <sup>in any case</sup> ~~but~~ ~~whether~~ is the  
case ~~of the word 'and' in the~~  
section as it stands would  
appear to admit of many of the  
evils of the truck system. <sup>and</sup> I shall accordingly be  
~~glad~~ <sup>glad</sup> if you will  
take an early opportunity to  
be taken to amend it so as to  
exclude the possibility of ~~the~~  
~~admitting the possibility of~~ ~~such a practice being~~  
~~admitted.~~

an employer's supplying  
goods at his own discretion  
instead of the cash wages  
which the employee  
has earned.

in section 91  
and "section 24" / should  
officially read "section 23"

"holder"; <sup>These</sup> ~~two~~ sections  
might be appropriately amended  
when a convenient opportunity  
occurs.

If they amend 91 no  
doubt they will correct  
them too.  
J.P.

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be taken to amend it so as to  
~~exclude the possibility of this~~  
~~amend the possibility of such a practice changing of~~  
~~to~~

an employer's supplying  
goods, at his own discretion,  
instead of the cash wages  
which the employee  
has earned.

2. "claim", "location" - confusion.

§28 - mining not lawful on a claim?

11 & 23. C.f, these two.

18. Existing prospecting licence to any "person" - corpn., Co., syndicate or individual (2) - who holds a prospecting right or employs a holder. Under (12) no p.right to a holder as such; and only to attorneys or agents. Much confusion here owing to use of "person", individual etc. 12(1) and 12(3) in conflict.

18(2). Who is "him";

26(2) "Location" omitted?

26(5) Wording wrong?

28. Mining not lawful on a "claim" (2) definition of "claim"?

32. Does this apply to a p.l.holder; in terms it does not. But cf. 20/2). How long is a "claim" valid?

33. deals only with "mining locations". What about "claims"?

36. Does this apply to "claims"?

39. Here we have "claim" and "location" distinguished.

40. Here we are back at "claims" only, which is clearly wrong in view of 39.

42. Is not understood. Section 16 does not refer to either "claims" or "locations". Section 26 refers to "location" only. 42 as it stands is unintelligible.

43. What about a lease to a "claim" holder?

45. Wording should be more precise.

48. Is the proviso really meant to limit all enhancement, for ever, to 50% over the amount fixed by the first lease?

57. I think this wants, as 42 does, rewording.

58. What about "mining Locations" here?



2. "claim" "locution" - confusion  
# 24 - mining not lawful as a claim?

11 & 23 Of these two.

14. e.f.l. to any "person" = conf., so: syndicate or individual (2) = who holds a f. right as employer a holder. Under (13) no f. right to a l. as such; only to attorney - agents must confession here owing to use of "person" individual, etc. 12(1) & 12(3) in conflict.

18(2). Who is "law"?

26(2). "locution" omitted?

26(5). Working wrong?

27. Mining not lawful as a "claim" - in (2) defn of "claim"?

32. does this apply to a f.l. holder? the law, it does not. <sup>part of 20(2)</sup> how long is a "claim" called?

33. deals only with "mining locutions". What about "claims"?

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43. What about a lease to a "claim" holder?

45. Working at the mine precise

45. to the proviso really meant to limit  
all substance unit, for case, to 100% case  
the unit fixed by the first base?
57. I think the words, as 42 does,  
unwinding.
58. What about "missing locations"  
here?
- 60 (3). Reads necessarily with 2, left of  
"noless".
61. What about "claim" here? ?  
"prospecting right"?
62. "claim" again. "boundaries"  
is what is meant, not "units"?  
and how can we have "substances"  
units --- of a --- base?
67. What about "~~base~~ claim" here?
- 68 (4) "a" marked
69. If against left in 2 sec.
75. "Location" left and here?
78. Why not "claim" also?
82. "Location" see again?
- 83 9 7 4 "claim" left and?
- 88
89. "Location" left and?
90. "Location" ? ~~prospecting~~ <sup>prospecting</sup> right, e. f. because" left and?
91. "claim" ? "pros: right" left and?
92. "claim" (left and?)  
"pros: right" }

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all instances must, for ex., to 50% over  
the amt fixed by the first base?
57. I think the words, as 42 does,  
unavailing.
58. What about "mining locations"  
here?
- 60 (3). Acts necessarily with 2, def<sup>n</sup> of  
"rocks".
61. What about "claim" here? ?  
"prospecting right"?
62. "claim" again. "boundaries"  
is what is meant, not "trunk"?  
and how can we have "subterranean  
trunk --- of a --- base"?
67. What about "~~trunk~~" here?  
claim
- 68 (4) "or" omitted
69. If against def<sup>n</sup> in 2 see.
75. "Location" left out here?
78. Why not "claim" also?
82. "Location" see again?
- 83-94 "claim" left out?
88. "Location" left out?
89. "Location" ? "~~prospecting~~ prospecting  
right, e. f. because" left out?
90. "claim" ? "pros. right" left out?
91. "claim" } left out?
92. "pros. right" }
93. "claim" left out?

R. 297  
Bodan's report  
9 app. 23/11/34  
71

C. O.

Mr. Freeston. 22/2

Mr. ~~Hunt~~ 23.  
Mr.

Sir C. Bottomley.

Sir J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

23/2/34  
23-2  
at once

23-2  
at once

February,

1934. EF  
B 24

No. 44.

Your despatch of 9th January No.22,

Mining Legislation. I shall be

glad if no change <sup>is</sup> ~~may~~ be authorised

in existing rate of royalties without

prior reference to me.

secer.

DRAFT.

Code  
TELEGRAM.

GOVERNOR,

NAIROBI.

Receipt for  
Legal fees on  
the Draft.

Note showing how Sir John Campbell's criticisms in 22(a) on 3006/33 have been met.

-----

Sections

- 2                    The confusion between "claim" and "location". This has been met by omitting all definition of claim from Section 2 and inserting a new definition of "location".
- 11 & 23.            These are now Sections 12 and 23. Only minor amendments have been made to Section 23, but I do not see that the two Sections are in conflict.
- 18                   Now Section 17. Sir John Campbell's criticisms seem to have been met by deleting the definition of "person" from Section 2.
- 18 (2)              Now Section 17 (2). The criticism has not been met; the ambiguous "him" still remains.
- 26 (2)              Now Section 25. "Location" now inserted.
- 26 (5)              The wording has been altered. ? The Section is now all right.
- 28                   Now Section 27. This Section has been radically altered.
- 32.                  This has now become Section 29, and Section 20 (2) is Section 19 (2). ? The amendments made to these Sections now make them all right. *2 galle in s. 17 done in London who already had worked it right*  
The new Section 30 deals with the duration of a location.
- 33 & 36             These are now Sections 30 and 31, and only apply to locations.
- 39                   Now Section 34. The ~~distinction~~ between "claim" and "location" disappears.
- 40                   Now Section 35, and only deals with locations.
- 42.                  Now Section 39. As amended this refers only to Section 15 (formerly Section 16). But even now it seems a little obscure, *or at least ambiguous.*

*Perhaps, but need in effect?*

Note showing how Sir John Campbell's criticisms in 22(a) on 3006/33 have been met.



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- 28                    Now Section 27. This Section has been radically altered.
- 32.                    This has now become Section 29, and Section 20 (2) is Section 19 (2). ? The amendments made to these Sections now make them all right. *I gather in 2.17 that we know who should have been the right*  
The new Section 30 deals with the duration of a location.
- 33 & 36             These are now Sections 30 and 31, and only apply to locations.
- 39                    Now Section 34. The distinction between "claim" and "location" disappears.
- 40                    Now Section 35, and only deals with locations.
- 42.                    Now Section 39. As amended this refers only to Section 15 (formerly Section 16). But even now it seems a little obscure, or at least ambiguous.

*Perhaps, but need we object?  
J.C.W.*

Sections

43

Now Section 40. Claim holders no longer exist.

45

Now Section 42. A slight amendment to the wording has been made.

48

This is now Section 45, and the proviso has been duly amended.

*All increases  
must be  
withheld*

57

This is now Section 52, and has not been reworded.

58

This has now been deleted and embodied in Section 32.

60 (3)

This is now Section 55 (3). The definition of "notice" has been deleted.

*with not - but?  
then it should  
cover the whole  
thing*

61

This is now Section 24. <sup>Can't license be said to</sup> ~~and (2) is all right on the~~

62

~~... covers 'historic right'?~~  
This is now Section 60. The word "boundary" line is still retained.

*the situation seems  
less enough*

67

Now Section 36. No more claims.

*"... seem clear  
necessary after  
repealing"*

68 (b)

Now Section 65 (b). <sup>No change has been made.</sup> ~~This is all right.~~

69

Now Section 66. The definition of "notice" has been deleted from Section 2.

From here onwards Sir John Campbell's points deal with the confusion between claims and locations, which has now disappeared.

Sections

43

Now Section 40. Claim holders no longer exist.

45

Now Section 42. A slight amendment to the wording has been made.

48

This is now Section 45, and the proviso has been duly amended.

*All increases of rent are forbidden*

57

This is now Section 52, and has not been reworded.

? *Levy*

58

This has now been deleted and embodied in Section 32.

60 (3)

This is now Section 55 (3). The definition of "notice" has been deleted.

*Think not - but? whether it shall be p.v. covers the whole colony*

61

This is now Section 24.

*Can't believe or said to (2) is all right on the*

62

~~... covers ...~~

*probable right? X*

*The intention seems clear enough*

67

This is now Section 60. The word "boundary" *is* is still retained.

*"or" seems clearly necessary after "prospecting"*

68 (b)

Now Section 36. No more claims.

*No change has been made.*

69

Now Section 65 (b). ~~This is all right.~~

Now Section 66. The definition of "notice" has been deleted from Section 2.

From here onwards Sir John Campbell's points deal with the confusion between claims and locations, which has now disappeared.

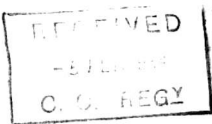


273  
THE SECRETARIAT,  
NAIROBI,  
KENYA.

WHEN REPLYING  
PLEASE QUOTE  
No. S. MIN.  
AND DATE

1/16/2/58.

11<sup>th</sup> January, 1934.



No 1  
The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies and with reference to Kenya despatch No. 22 of the 9th January, has the honour to transmit twelve printed copies of Ordinance No. LXI of 1933 entitled "An Ordinance to Consolidate and Amend the Law Relating to Mining", together with four copies of the Report of the Committee appointed to examine the Mining Legislation.

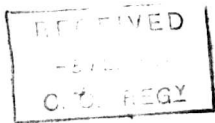
h.L.



THE SECRETARIAT,  
NAIROBI,  
KENYA.

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AND DATE

1/1/6/2/58.



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No 1

hnl



Colony and Protectorate of Kenya.

IN THE TWENTY-FOURTH YEAR OF THE REIGN OF  
HIS MAJESTY KING GEORGE V.  
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,  
*Governor.*

Assented to in His Majesty's  
name this 30<sup>th</sup> day of December,  
1933.

*Governor.*

AN ORDINANCE TO CONSOLIDATE AND AMEND  
THE LAW RELATING TO MINING



Colony and Protectorate of Kenya.

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AN ORDINANCE TO CONSOLIDATE AND AMEND  
THE LAW RELATING TO MINING

**ORDINANCE No. LXI of 1933**

**An Ordinance to Consolidate and Amend the  
Law Relating to Mining.**

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Mining Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. Short title and commencement.

PART I.

GENERAL.

2. (1) In this Ordinance, unless inconsistent with the context— Interpretation.

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"coal location" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connexion with prospecting or mining is carried on;

"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals.

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"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals.

precious stones or non-precious minerals, but save for the purposes of Part V of this Ordinance shall not include clay, murrum, sand, limestone, sandstone or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance;

"mining location" means an area other than a coal location in respect of which mining rights may be acquired under a prospecting right in accordance with the provisions of this Ordinance;

No. 9 of 1930. "Native Lands Trust Board" means the Native Lands Trust Board established under the Native Lands Trust Ordinance, 1930;

No. 9 of 1930. "Native Reserve" has the meaning assigned to it in the Native Lands Trust Ordinance, 1930;

"non-precious minerals" means all minerals other than precious metals or precious stones;

"open-cast" means any uncovered excavation which has been made from the surface for the purpose of winning minerals;

"owner" or "occupier" includes an owner in fee simple, a lessee, a grantee, a licensee and a native in lawful occupation of Crown land;

"precious metals" means gold, silver or metal of the platinoid group in the unmanufactured state, including ores containing such metal, but shall not include ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;

"precious stones" means any diamond, emerald, opal, ruby, sapphire, turquoise and any other stones which the Governor in Council may by notice declare to be included in this definition;

"private lands" includes lands privately owned and land the subject of a grant, lease or licence from the Crown;

"to prospect" means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;

"protection area" means an area which may be acquired as prescribed under a prospecting right.

"the regulations" means the regulations for the time being in force under this Ordinance;

"salt licks" means those deposits of salt or other mineral which are being regularly used as salt licks for stock, whether privately owned or not;

"stock" includes cattle, sheep, goats, horses, swine, camels, mules, donkeys, dogs, or poultry.

"tailings" means all gravel, sand, slimes, or other substance which is the residue of bona fide mining operations.

(2) For the purpose of this Ordinance, every Native Reserve shall be deemed to be private land, and the Native Lands Trust Board shall be deemed to be the owner: Provided that any moneys received by that Board by way of rents or compensation shall be devoted to the use of the natives concerned.

Native Reserves

3. Nothing contained in this Ordinance shall confer any right to prospect for or to win any mineral oil.

Mineral oil excluded from this Ordinance.

4. The entire property in and control of all minerals and mineral oils in, under or upon any lands in the Colony are and shall be vested in the Governor in trust for His Majesty, save in so far as such right may in any case have been limited by any express grant made before the commencement of this Ordinance, or by any certificate of ownership issued or hereafter issued under the hand and seal of the Recorder of Titles.

Control and property in minerals and mineral oils vested in the Governor.

5. Nothing in this Ordinance shall be deemed to authorize any person to enter any district or area to which entrance by him may be forbidden by any law, Ordinance or regulation for the time being in force.

Prospecting in closed districts.

6. Except as in this Ordinance provided, any person who shall prospect or mine on any lands in the Colony shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, and the forfeiture of all minerals obtained in the course of such unauthorized mining or prospecting, or if such minerals cannot be forfeited such sum as the court shall assess as the value of such minerals.

Penalty for prospecting or mining without authority.

7. The following classes of land are (save where otherwise in this Ordinance provided) excluded from prospecting or mining:—

Lands excluded from prospecting.

(a) Land dedicated or set apart as a place of burial or for any public purpose other than mining, except with the consent of the Governor.

- (b) Any area situate within any municipality or township or trading centre except with the consent of the owner or holder of surface rights and of the Governor or municipal or township authority, or of the District Commissioner in the case of a trading centre.
- (c) Land held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones which are recognized by the Government.
- (d) Any area over which exclusive prospecting or mining rights have previously been granted by the Governor and are still subsisting and any area in respect of which an application for such rights in the prescribed form has been accepted for consideration.
- (e) Land reserved for the purpose of any railway or situate within one hundred yards of any railway, except with the consent of the High Commissioner.
- (f) Any area which is the site of or is within one hundred yards of any dam or canal or reservoir or Government building, except with the sanction of the Governor.
- (g) Any street, road or highway, or any land within 30 feet of the centre line of any street, road or highway, or land reserved for any public road or highway, without the consent of the Governor or of the municipal authority or other public body having the control thereof.
- (h) Salt licks.
- (i) Land within a Native Reserve except with the consent in writing of the Native Lands Trust Board and on such conditions as may be stipulated. The Governor, at the request of the Native Lands Trust Board, may appoint any Provincial Commissioner to be the delegate within his province of the Native Lands Trust Board for the purposes of giving the consent in writing required by this paragraph.
- (j) Land which the Governor may by notice declare to be excluded from prospecting or mining: Provided that the Governor may reopen any land so excluded from prospecting or mining under such conditions as he may think fit.

Should any question arise as to whether any particular land is excluded under this section it shall be referred to the Governor, whose decision shall be final and conclusive.

8. Nothing in this Ordinance shall be deemed to prevent any native of the Colony from taking, subject to such conditions as may be prescribed, iron, salt or soda from lands (other than lands within the area of a mining lease or claim) from which it has been the custom of the members of the community to which that native belongs to take the same.

9. The Governor may appoint a Commissioner of Mines (hereinafter referred to as "the Commissioner"), a Mining Engineer, Inspectors and Assistant Inspectors of Mines, Wardens and Registrars, and such other officers as may be necessary for the carrying into effect of the provisions of this Ordinance.

10. The Commissioner may, with the approval of the Governor, delegate or assign to any other officer appointed under section 9 all or any of his powers and duties.

11. No action or other legal proceeding whatsoever, civil or criminal, shall be instituted in any court against the Commissioner or other officer or any person acting under his authority for or on account of or in respect of anything done in good faith and in the execution or intended execution of his duty under this Ordinance.

12. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed:

Provided that the Commissioner may by permit under his hand exempt from liability to royalties samples of minerals extracted for the purposes of assay.

#### PART II.

##### A.—PROSPECTING RIGHT.

13. (1) The Commissioner or an officer duly authorized by him in that behalf may issue to any person a prospecting right in the prescribed form upon the payment of the prescribed fee: Provided that a prospecting right shall not be granted—

- (a) to any person who is under eighteen years of age;
- (b) to any person who is unable to read or to any person who is incapable of understanding this Ordinance in such a way as to form a reasonable guide to and restriction on his actions.

(2) A prospecting right may be granted to an individual as agent for another individual if such agent is the lawfully constituted attorney of such individual.

(3) A prospecting right shall not be granted to a company or partnership as such, but may be granted to an individual as agent of the company or partnership. In such case the application for the prospecting right must be made by the individual in person, who must either be the lawfully constituted attorney of the company or partnership or produce an application in writing for the grant of the prospecting right to the individual as agent for the company or partnership, signed by a director or responsible manager or partner of the company or partnership. Such application must contain an undertaking by the company or partnership with the Government to be responsible for the acts and omissions of the individual, who shall also be responsible for his own acts and omissions.

(4) A prospecting right shall not be transferable and shall be in force for a period of one year from the date of issue.

(5) A prospecting right shall be produced whenever demanded by the owner or occupier of private land on which the holder thereof is prospecting, or by any administrative officer, officer of the Mines Department or police officer.

(6) A fee of twenty shillings shall be paid for every prospecting right.

Prospecting  
right  
privileges.

14. Subject to the exceptions in section 7, and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supplies, the holder of a prospecting right may—

- (1) prospect on any land in the Colony for any minerals, except diamonds, unless the Commissioner shall endorse on the prospecting right authority to prospect for diamonds, which authority the Commissioner may refuse in any case without assigning any reason:

Provided that the holder of a prospecting right shall not prospect in a forest or game reserve unless he has first given notice to the officer in charge of such reserve and complies with the conditions lawfully imposed by such officer;

- (2) whilst engaged in bona fide prospecting erect on any unoccupied land his camp and such buildings or machinery as may be necessary for the purpose of

prospecting, free of charge on unoccupied Crown lands or on private lands on payment or tender of a reasonable sum in payment therefor;

- (3) sink shafts or wells or dig trenches;

(4) on any land not excluded from prospecting take for the purposes of bona fide prospecting or for his domestic use water from any lake, river or stream, and, with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment therefor, any fuel other than standing timber: Provided that he shall not divert water from any river, stream or water-course without the consent of the authority having the control thereof;

- (5) graze upon lands not excluded from prospecting such horses or other animals as may be necessary for his subsistence or for the carrying on of prospecting or mining, free of charge on unoccupied Crown lands and on private lands on payment or tender of a reasonable sum in payment therefor;

- (6) apply for an exclusive prospecting licence or a protection area and mark off and apply for the registration of claims and locations and apply for a mining lease.

15. Any person intending to prospect on private land shall when practicable give notice of his intention to the occupier of such land before commencing prospecting operations thereon, and shall, if required by the owner or occupier give security in such sum as the Commissioner may direct for the payment of compensation for the disturbance of surface rights and for any damage done to the land or trees or crops thereon or to stock by the prospector, and, if required by the owner or occupier, shall desist from prospecting on the land until such security has been given.

Prospecting on  
private land.

16. The holder of a prospecting right may apply to the Governor for an authority to prospect on any lands excluded from prospecting and the Governor may grant such authority on such terms as to area, period, rent and other conditions as he shall think fit. Failure to comply with any of the terms so fixed shall render the authority liable to cancellation.

Authority to  
prospect on  
land excluded.

## B.—EXCLUSIVE PROSPECTING LICENCE.

Exclusive  
prospecting  
licences.

17. (1) The Governor may grant an exclusive prospecting licence to any company, body of persons, partnership or any person who holds a prospecting right or to any person whose agent is the holder of a prospecting right.

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall submit a programme of work and satisfy the Governor that he has sufficient capital to ensure the proper prospecting by methods approved by him of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers of the land in respect of which the licence is required and shall, if required by the Governor or by the regulations, furnish a financial guarantee for such sum as the Governor may direct or as may be prescribed. Notice of every such application shall be published in the Gazette:

(3) The Governor may grant or withhold the grant of an exclusive prospecting licence as he may think proper:

Provided that a person who has previously held such licence shall not within a period of one year after its expiry be granted a further licence in respect of any portion of the area in respect of which he has previously held a licence. This prohibition shall extend to any person associated with the former holder of the licence.

(4) An exclusive prospecting licence shall not be granted in respect of any area exceeding eight square miles:

Provided that the Governor may at his sole discretion grant exclusive prospecting licences over areas exceeding eight square miles upon such terms and conditions as he may think fit.

(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject, on acceptance of a satisfactory programme of further development, to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of five years; provided that, should the renewal be refused, the licence shall be valid for a further period of thirty days from the date at which it would otherwise have expired.

(6) All exclusive prospecting licences shall be registered at the office of the Commissioner in the prescribed manner.

(7) For every exclusive prospecting licence there shall be paid a registration fee of ten shillings, and a conveyancing fee of seven pounds ten shillings.

(8) On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding in any case five shillings per square mile, shall be payable in addition to all other fees due.

18. An applicant for an exclusive prospecting licence wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be given under this Ordinance shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Penalty for  
giving false  
information.

19. (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet, upon the lands within the area of his prospecting licence, and for such purpose may—

Rights under  
an exclusive  
prospecting  
licence

- (a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
- (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant, and construct such ways as may be necessary for or in connexion with his prospecting operations.

(2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg locations upon the lands within the area of his licence as prescribed.

20. The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Governor signified by an endorsement thereon.

Transfer of  
rights under  
licence.

The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

21. (1) The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations approved at the time of his application or the renewal thereof:

Obligation of  
the holder of  
exclusive  
prospecting  
licence.

## B.—EXCLUSIVE PROSPECTING LICENCE.

Exclusive  
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licences.

17. (1) The Governor may grant an exclusive prospecting licence to any company, body of persons, partnership or any person who holds a prospecting right or to any person whose agent is the holder of a prospecting right.

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall submit a programme of work and satisfy the Governor that he has sufficient capital to ensure the proper prospecting by methods approved by him of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers of the land in respect of which the licence is required and shall, if required by the Governor or by the regulations, furnish a financial guarantee for such sum as the Governor may direct or as may be prescribed. Notice of every such application shall be published in the Gazette.

(3) The Governor may grant or withhold the grant of an exclusive prospecting licence as he may think proper:

Provided that a person who has previously held such licence shall not within a period of one year after its expiry be granted a further licence in respect of any portion of the area in respect of which he has previously held a licence. This prohibition shall extend to any person associated with the former holder of the licence.

(4) An exclusive prospecting licence shall not be granted in respect of any area exceeding eight square miles:

Provided that the Governor may at his sole discretion grant exclusive prospecting licences over areas exceeding eight square miles upon such terms and conditions as he may think fit.

(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject, on acceptance of a satisfactory programme of further development, to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of five years; provided that, should the renewal be refused, the licence shall be valid for a further period of thirty days from the date at which it would otherwise have expired.

(6) All exclusive prospecting licences shall be registered at the office of the Commissioner in the prescribed manner.

(7) For every exclusive prospecting licence there shall be paid a registration fee of ten shillings, and a conveyancing fee of seven pounds ten shillings.

(8) On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding in any case five shillings per square mile, shall be payable in addition to all other fees due.

18. An applicant for an exclusive prospecting licence wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be given under this Ordinance shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Penalty for  
giving false  
information.

19. (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet, upon the lands within the area of his prospecting licence, and for such purpose may—

Rights under  
an exclusive  
prospecting  
licence

- (a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
- (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant, and construct such ways as may be necessary for or in connexion with his prospecting operations.

(2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg locations upon the lands within the area of his licence as prescribed.

20. The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Governor signified by an endorsement thereon.

Transfer of  
rights under  
licence.

The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

21. (1) The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations approved at the time of his application or the renewal thereof.

Obligation of  
the holder of  
exclusive  
prospecting  
licence.

Provided that the Commissioner may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

(2) Failure to exercise due skill and due diligence to the satisfaction of the Commissioner shall be a ground for cancellation of the licence.

22. The holder of an exclusive prospecting licence shall keep to the satisfaction of the Commissioner full and accurate records of his prospecting operations, and alluvial mining (if any).

C.—GENERAL.

23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence except as provided under sub-section (1) of section 19 shall be the property of the Government and, except for the purposes of sampling and assay, shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner:

Any person who commits an offence against this sub-section shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The Commissioner may authorize the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

24. Any person who discovers any minerals of economic value on any land subject to any licence or location granted under this Ordinance other than that for which his licence or location was granted shall report the discovery to the Commissioner as soon as possible.

Records of prospecting operations.

Disposal of minerals obtained in prospecting.

Discovery to be reported.

25. (1) The holder of a prospecting right or of an exclusive prospecting licence or of a location shall, on demand being made by the owner or occupier of land upon or under which prospecting operations are or have been carried on, pay him fair and reasonable compensation for any disturbance of the rights of such owner or occupier, and for any damage done to the surface of the land or to stock by such operations, and shall, on demand being made by the owner of any crops, trees, buildings, stock or works damaged by the holder of the right or licence or by any agent or servant of such holder, pay compensation for such damage.

(2) (i) If the holder of a prospecting right, exclusive prospecting licence or location fails to pay compensation when demanded under sub-section (1), or if an owner or occupier is dissatisfied with the compensation offered, the owner or occupier may take proceedings before a Warden, in which case the provisions of Part IV of this Ordinance shall apply:

Provided that when the claimant is a native, the Administrative Officer in charge of the district shall, if the native so desires, assess and determine the amount of the compensation, and the decision of such Administrative Officer shall in such case be final, subject only to an appeal to the Governor.

(ii) Notice of appeal against the decision of the Administrative Officer shall be given to such officer within fourteen days of the date on which his decision is notified to the party desiring to appeal.

(3) The sum awarded shall be paid by the holder of the prospecting right, exclusive prospecting licence or location to the person entitled thereto, within fourteen days of the date on which the amount of the final award is notified to the holder of the right, licence or location or shall be paid into court pending the disposal of any appeal or appeals thereon.

(4) If the sum awarded is not paid within the time specified in sub-section (3), such sum may be paid out of any moneys deposited by the holder of the right, licence or location under section 15, or, if no moneys or insufficient moneys have been deposited, may be sued for by the persons entitled thereto in any court.

(5) The Governor may suspend the prospecting right or exclusive prospecting licence or the right to work a location of the person in default until the amount awarded has been

Payment of compensation to owners or occupiers of land.

paid and until the holder of the right, licence or location has deposited with the Government such further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right, exclusive prospecting licence or forfeit the location of the person in default.

Revocation of prospecting right or exclusive prospecting licence.

26. In the case of any breach by the holder of a prospecting right or an exclusive prospecting licence or by any attorney or manager employed by such holder of any of the provisions of this Ordinance or of any regulation made thereunder, it shall be lawful for the Commissioner to call upon the holder of the right or licence to show cause, within a time specified by the Commissioner, why his right or licence should not be revoked, and should he fail to comply with such order within the time specified or should the cause shown not be adequate in the opinion of the Governor, the Governor may summarily revoke the right or licence, and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date of such revocation cease:

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Ordinance or of any regulation committed by him before such revocation.

### PART III.

#### MINING.

Mining: when lawful.

27. (1) Mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence duly authorized under section 19 of this Ordinance.

(2) No person himself or by his agent shall mark off a location unless he is the holder of a prospecting right.

(3) Mining locations shall be either alluvial locations or lode locations, provided that the Commissioner may grant authority, on such terms as he may think fit, permitting a location-holder to conduct, on the land comprised in his location, mining operations of a kind different from that in respect of which his location is registered, and may vary or revoke any such authority.

(4) If a location-holder on the land comprised in his location carries on mining operations of a kind different from that

in respect of which his location is registered, unless authorized so to do under the preceding sub-section, his location shall be liable to forfeiture.

28. No rent shall be payable for a location. For a mining lease there shall be paid a rent of two shillings and fifty cents per annum per acre or part thereof.

Registration of locations.

29. (1) When any holder of a prospecting right marks off a location in the manner prescribed, on land not excluded from prospecting or mining, in accordance with the provisions of this Ordinance and of the regulations, he shall within thirty days thereafter apply in manner prescribed for registration, and shall state the nature of the location pegged.

(2) If the application is in accordance with the provisions of this Ordinance and of the regulations, the Warden shall register the location.

(3) Any person failing to apply for the registration of a location within the period aforesaid shall forfeit all rights in respect thereof and shall, if he works or mines on such a location, incur the penalty prescribed for unauthorized mining.

Duration of location.

30. A mining location shall be valid for one year from the date of pegging and may be renewed on payment of the prescribed fee for further terms of one year each up to a maximum of five years in all.

Rights under a location.

31. The holder of a location shall have the right to enter upon the land the subject of the location, and the exclusive right to prospect or mine thereon and to remove therefrom and dispose of the minerals in respect of which the location shall have been registered.

Notice to private occupiers who may demand security. Right of location holder to take timber.

32. A location holder may, on the lands included within the area of his location, cut, take and use any tree when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall be liable for any fees or royalties which may be payable under any law relating to forests and shall, before cutting, taking and using any such tree pay to the owner or occupier of the land on which such tree is standing a reasonable sum therefor. If

the owner or occupier is dissatisfied with the compensation offered the dispute shall be dealt with under the provisions of section 25 of this Ordinance.

Transfer of locations and interests therein.

33. Subject to the approval of the Commissioner, after a location has been registered as aforesaid, the holder may, in the manner prescribed, by instrument in writing divide his interest in the location into such shares as he shall think proper, and may allot shares or transfer the location or create or transfer any interest therein.

Locations when liable to forfeiture by the Commissioner.

34. (1) A location or part thereof shall be liable to forfeiture by the Commissioner in any of the following circumstances:—

- (a) if the person pegging has failed to apply for registration or renewal in the prescribed manner;
- (b) if the holder has not produced when demanded by the Commissioner, within such period as he may allow, satisfactory evidence of compliance with the working conditions prescribed;
- (c) if the holder fails to render any prescribed return when due, or within such additional time as the Commissioner may allow;
- (d) if the holder has not complied with any of the prescribed conditions; or
- (e) if registration thereof has been obtained by any false or fraudulent representation or concealment:

Provided that the happening of any one or more of such circumstances shall not render it obligatory for the Commissioner to declare the forfeiture of any location or any part thereof.

(2) If the Commissioner is satisfied that in the circumstances a location or any part thereof should be forfeited he shall give notice in writing to the holder specifying the location or part thereof to be forfeited, the cause of forfeiture, and the date from which the location or part thereof shall be deemed to be forfeited, and shall not less than thirty days after the giving of such notice to the holder by notice in the Gazette declare such location or part thereof to be forfeited as from a date to be specified in such notice.

35. (1) Any person who shall abandon his location or any part thereof or his exclusive prospecting licence shall forthwith notify the Commissioner of such abandonment.

Obligation on abandonment

(2) Any person who shall abandon his location, exclusive prospecting licence area or any part thereof and any person whose location, exclusive prospecting licence area or any part thereof shall have been forfeited shall forthwith fill up, fence, or secure to the satisfaction of the Commissioner or other prescribed officer all shafts, pits, holes and excavations, in such a manner as to prevent persons or stock inadvertently entering them and shall remove all notices, beacons and boundary posts thereon, and in default of so doing, shall be liable to a fine of fifty pounds or to imprisonment for a term not exceeding three months, and in addition shall be liable to pay such sum as the Commissioner may certify the cost of doing so will be.

(3) For the purposes of this section, failure to apply for registration or renewal of a location or for the renewal of an exclusive prospecting licence within the prescribed time shall be deemed to be an abandonment of such location or of such exclusive prospecting licence.

36. The owner of any plant, machinery, engines or tools on any forfeited or surrendered location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed they may be sold by auction by order of the Commissioner at the risk of the former or the holder of a location. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance.

Owner may remove plant, etc., on surrender.

37. Ground which has been abandoned or forfeited shall be open to re-pegging after a period of thirty days from the date of abandonment or forfeiture, provided that no person shall be entitled either directly or indirectly, through an agent or otherwise to re-peg any ground which has been abandoned by him or forfeited while held by him until after a period of ninety days from the date of such abandonment or forfeiture.

Re-pegging of ground, forfeiture, etc.

Penalty for false representation.

38. Any person who shall by false representation or fraudulent concealment of facts obtain registration of any location or part thereof under this Ordinance shall, in addition to the forfeiture of the location or part thereof, be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

Application of section 15 to locations.

39. The provisions of section 15 shall apply *mutatis mutandis* to a location.

Grant of leases.

40. The Governor may grant a lease to the holder of a mining location or of a coal location in respect to the whole or any part of his location.

Applications for leases.

41. Applications for leases shall be made in the prescribed form and manner, and shall be subject to the prescribed conditions as to marking out and survey of the land applied for, taking possession thereof and otherwise, and shall be accompanied by payment of one year's rent in advance at the rate prescribed.

Applicant to show sufficient capital.

42. The Governor may require an applicant for a lease to show to his satisfaction that he possesses or commands or will within twelve months command sufficient working capital to ensure the development of and working of mining operations on the area applied for, and may require any reports on the matter made by prospectors or engineers to be submitted for his information.

In the event of the applicant failing to satisfy the Governor as aforesaid, the Governor may refuse the application, but the applicant may make a new application at any time.

Giving false information.

43. Any applicant for a lease wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be required to be given under this Ordinance shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

Duration of lease.

44. A lease may be granted for such term, not being less than five or more than twenty-one years, as the Governor may think proper.

Renewal of lease.

45. If at the expiration of the term originally granted or of any renewal thereof the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Ordinance, and the lessee shall have given to the

Commissioner six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new leases:

Provided that in the case of any renewal the rent shall not be increased.

46. A lessee shall not transfer or assign his lease or any of the rights conferred thereby without the consent in writing of the Governor signified by endorsement thereon. No transfer of lease without consent.

47. (1) The Governor may grant a special lease of any land if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land, or for any other cause, it is necessary that such a lease be granted. Special lease.

(2) The Governor may fix the form of, and area to be comprised in, any such lease, the rent and royalty to be paid, and the labour and other conditions, reservations and exceptions to be contained in the same, but in all other respects such special lease and the applications for the same shall be subject to the provisions of this Ordinance and of the regulations.

48. A lease shall confer upon the lessee the right to enter upon the lands the subject of the lease, and, subject to the regulations, the exclusive right to mine on such lands and the right to remove and dispose of the minerals specified in the lease, and to do all such things as are reasonably necessary for the conduct of mining operations. Rights under a lease.

49. (1) The Commissioner may grant authority upon such terms as he may think fit permitting the lessee to mine on the land comprised in his lease for any mineral other than that in respect of which the lease was granted, and may vary or revoke any such authority. Mining for mineral other than that for which lease granted.

(2) If the lessee mines for any mineral other than that in respect of which his lease or any authority as aforesaid has been granted, his lease shall be liable to forfeiture.

50. In so far as it may be necessary to the lessee for or in connexion with his mining operations and subject to the provisions of this Ordinance and of the regulations, the lessee Surface rights of lessee.

shall have on the lands included in his lease the following rights—

- (a) to make all necessary excavations;
- (b) to erect, construct, and maintain houses and buildings for his use and for the use of his agents and servants;
- (c) to erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;
- (d) to stack or dump any of the products of mining;
- (e) subject to the provisions of any law relating to water, to lay water-pipes and to make water-courses and pounds, dams and reservoirs, and to divert from a natural water-course any water on or flowing entirely through the land, provided that—
  - (i) any water diverted not containing any noxious or poisonous matter shall be returned to its natural channel before leaving such land;
  - (ii) any existing rights to use any source of natural water supply shall not be disturbed;
- (f) to construct and maintain all such tramways, roads, communications and conveniences as may be necessary;

Provided that whenever a disagreement shall arise between the owner in the case of private land and the lessee in connexion with surface rights, the matter shall be determined by the Commissioner.

Mining near public buildings, railways, etc., prohibited except with the consent of the Governor.

51. A lease shall not authorize the lessee to occupy or mine on or under land within one hundred yards of any Government or public buildings or works, or of any market, burial ground, public road, tramways, or of any railway, without the consent in writing of the Governor first obtained, and subject to the conditions, if any, imposed by the Governor.

Notice to private occupiers who may demand security.

52. The provisions of sections 15 and 25 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Right of lessee to take timber.

53. The provisions of section 32 shall apply *mutatis mutandis* to a lessee.

54. A lease may be surrendered at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender if the sanction of the Governor be endorsed in writing thereon, and on payment of the prescribed fee, but not otherwise, provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect.

Surrender of lease.

55. (1) The Governor may, by notice to the lessee, determine a lease in the following cases:—

Grounds for forfeiture of lease.

- (a) if the lessee shall commit a breach of any provision of this Ordinance or of the regulations, or of any conditions of the lease, and does not repair such breach, within such period, being not less than one month from the date of the receipt of a notice in writing from the Commissioner so to do, as the Governor may decide; or
- (b) if the lessee shall wholly cease work in, on, or under the land the subject of the lease during a continuous period of six months, without the written consent of the Commissioner.

(2) Such determination shall not affect any liability already incurred by the lessee.

(3) Publication in the Gazette together with written notice to the last known address of the lessee shall be sufficient notice to the lessee.

56. (1) Any lessee whose tenancy is by any means determined may, within thirty days of such determination, apply to the Commissioner for leave to enter the land comprised in the lease and treat or remove any tailings, ore at grass or stone left thereon by him. The Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

Treatment of tailings, etc., after determination of lease.

(2) If such leave is not applied for within thirty days or such treatment or removal is not completed within the time fixed, any tailings, ore at grass or stone remaining on the land shall become the absolute property of the Government.

57. Whenever a lease becomes liable to forfeiture, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind

Extension after forfeiture.

the lessee and all transferees, mortgagees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

Owner may remove plant, etc., on surrender. Discovery to be reported.

58. The provisions of section 36 shall apply *mutatis mutandis* to a lessee.

59. The provisions of section 24 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Subterranean limits.

60. The subterranean limits of any location or mining lease shall be vertical planes passing through the sides by which the location or lease is bounded: Provided that the Governor may grant a lease of a subterranean area larger than the limits of the surface of land comprised in such lease. In such case so much of the surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from prospecting or mining and the lessee of such subterranean area shall have the right to enter upon any part of the surface lying above the area of his lease and construct thereon such works, ways and buildings as may be deemed by the Commissioner necessary for the proper working of his lease on payment of such rent and such compensation for the use of such surface as the Governor may determine.

Penalty on non-payment of rent.

61. The rent payable under a lease shall be payable to the Commissioner yearly in advance, and, if not paid within three months of becoming due, and after the Commissioner shall have served notice on the person in default demanding payment, an amount of ten per centum of the amount due shall be added to the rent and shall be due and payable as if it were part of the rent.

Rent, how recoverable.

62. The rent reserved by any lease may be levied or recovered under the authority of or in the name of the Commissioner, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned.

Registration of leases, etc.

63. Every lease under this Ordinance, and every transfer or sub-lease of the land comprised in any such lease, shall be registered in the office of the Commissioner in the manner prescribed, and no such lease, transfer or sub-lease shall be valid unless so registered.

64. No sale, lease, mortgage, charge, lien or other dealing relating to any exclusive prospecting licence, location or mining lease shall be valid, and no evidence thereof shall be receivable in any civil proceedings before any court, unless it is registered in the prescribed manner. Registration of leases, etc.

#### PART IV.

##### DISPUTES.

65. Subject to the provisions of any law for the time being in force in the Colony a Warden may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters hereinafter mentioned, and shall have power to make any order which may be necessary for the purpose of giving effect to his decision and to order the payment by any party to the dispute of such compensation to any other party as may be reasonable. Such matters are as follows:— Warden may decide disputes

(a) Disputed boundaries.

(b) Any wrongful act committed, or any act wrongfully omitted, or alleged to have been committed or omitted, in the course of prospecting or mining operations, by any person against any other person.

(c) Acts, omissions or matters in the course of, connected with, or auxiliary to prospecting or mining operations.

(d) The claim of any person to be entitled to erect, cut, construct, or use any pump, line of pipes, flume, race, drain, dam, or reservoir for mining purposes, or to have any priority of water taken, diverted, used or delivered, as against any other person claiming the same.

(e) Assessment and payment of compensation where provided for under this Ordinance.

66. The mode of proceeding shall be as follows:— Procedure

(1) The person complaining shall lodge a memorandum in duplicate at the office of the Warden.

(2) The memorandum shall be in the prescribed form or in a form to the like effect, and shall specify shortly the subject-matter of the complaint and the relief claimed.

- (3) Upon receipt of the memorandum the Warden shall give notice in the prescribed form, by post or otherwise, to the party sued of the nature of the complaint, and the time and place at which the same will be heard and determined, and may, if he thinks fit, require him to answer the complaint in writing.
- (4) At the time and place appointed the parties shall attend and state their cases before the Warden, and may call evidence on oath (which oath the Warden is hereby authorized to administer) in support thereof, and the Warden, having heard such statement and evidence, shall give his decision.
- (5) The Warden may adjourn such hearing to any other time or place, and may, either at the original hearing or any adjournment, proceed in the absence of either party.
- (6) The Warden may at any time during the hearing seize or cause to be seized any minerals, and may detain them pending his decision.
- (7) The law for the time being regulating proceedings before and the powers of a subordinate court of the first class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, additions or alterations which may be prescribed, apply to proceedings before the Warden and to the enforcement of his decisions in like manner as if such decision were the decisions of such court.
- (8) Fees shall be charged as may be prescribed.

Warden  
to keep record  
and take  
notes.

67. (1) The Warden shall keep a record of all cases heard and complaints decided by him, and shall take notes in writing of all evidence given before him.

(2) Any person, interested in any dispute, decision, or order shall be entitled to obtain a copy of such record and notes upon payment of the prescribed fee.

Enforcement  
of warden's  
decrees.

68. (1) The Warden may send a copy, certified under his hand and seal, of any decree or order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the decree is situated, and such civil court

shall enforce the decree of the warden in the same manner in which it would enforce its own decree or order.

(2) The same fees only shall be payable in the civil court upon the enforcement of such decree or order as would be payable upon the enforcement of a like decree or order made by such court.

69. (1) Any person aggrieved by any decree, order, or decision made or given under the powers vested in a Warden, may appeal to the Commissioner.

Appeal to  
Commissioner  
from decisions  
of Warden.

(2) No appeal to the Commissioner shall be admitted after the expiration of thirty days from the date of the decree, order or decision appealed against.

(3) On an appeal to the Commissioner, fees shall be payable as may be prescribed.

70. (1) Any person aggrieved by any decree, order, or decision made or given under the powers vested in the Commissioner may appeal to the Supreme Court.

Appeal to  
Supreme  
Court from  
decisions of  
the Commis-  
sioner.

(2) No appeal to the Supreme Court shall be admitted after the expiration of thirty days from the date of the decree, order, or decision appealed against, except by leave of a Judge of the Supreme Court.

71. Nothing in this Part contained shall be deemed to prevent any person from instituting in any of the courts of the Colony any proceedings he may think fit to institute, as provided by law.

Jurisdiction  
of ordinary  
courts not  
excluded.

#### PART V.

##### POSSESSION AND PURCHASE OF CERTAIN MINERALS.

72. The minerals referred to in this Part shall be any mineral in the unmanufactured state to which the Governor in Council may, by notice, apply this Part.

Minerals to  
which this  
Part applies.

73. No person shall possess any such minerals unless he is the holder of a mining lease, location, exclusive prospecting licence or prospecting right, or of a licence granted under section 75, or the duly authorized employee of such lessee or holder.

Possession of  
minerals.

74. No person shall buy any such mineral unless he is the holder of a licence granted under the next succeeding section.

Purchase of  
minerals.

75. (1) The Commissioner may issue a licence in the prescribed form and on payment of the prescribed fee authorizing the person named therein to buy such minerals.

Licence to  
purchase  
minerals.

(2) Every such licence shall expire on the thirty-first day of December in the year in which the licence is granted.

(3) No such licence shall be transferred without the consent of the Commissioner.

**Restriction on purchase.**

**76.** The holder of a licence under the last preceding section shall not buy any such mineral except from the holder of a lease, a location, a prospecting right, if authorized under sub-section (3) of section 24, or exclusive prospecting licence, or a licence under this Part.

**Payment of royalties by licensee.**

**77.** Every holder of a licence to purchase minerals shall be liable for the due payment to the Government of all royalties due on any minerals bought by him, and, if so required by the Commissioner, shall give security for due payment of all such royalties.

**Books to be kept by licensee.**

**78.** The holder of a licence to purchase minerals shall—  
(a) keep books showing—

- (i) all purchases made by him and the nature and weight of such minerals purchased;
- (ii) the date of each purchase; and
- (iii) the name of the vendor and his title or authority to be in possession of such minerals; and

(b) produce such books for the inspection of the Commissioner or any officer authorized by him whenever required to do so.

**Penalties.**

**79.** The holder of a licence who shall commit any breach of the provisions of either of the two last preceding sections or of the conditions of his licence shall be liable to forfeiture of his licence in addition to the penalties prescribed by section 100.

**PART VI.**

**INSPECTION AND ACCIDENTS.**

**Powers of officers.**

**80.** The Commissioner, Mining Engineer, Inspector or Assistant Inspector or any other person duly authorized by the Commissioner in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or

which is the subject of any right, licence, location, or lease;

- (ii) examine into and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining activity, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and ways;
- (iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined;
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of this Ordinance into effect.

**81.** (1) If in any respect such officer or person finds any mine or any matter, thing or practice in or connected with mining or prospecting operations to be dangerous or defective so as, in his opinion, to threaten or tend to the bodily injury of any person or stock, he shall give notice in writing thereof to the lessee or the holder of the right, location or licence or his agent in charge of the mine or operations, and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

**Obligation to remedy any dangerous practice.**

(2) On receipt of such notice, the lessee or the holder of the right, location or licence or his agent shall comply therewith, or, if he intends to object thereto, as provided by the following section, he shall cease to use the said mine, or part thereof, machine, plant, matter, thing or practice as to which such notice shall have been given, and shall forthwith withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner, and in case of default shall be guilty of an offence against this Ordinance: Provided that if, in the opinion of

such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the persons and stock.

Proceedings on objection to comply with notice.

**82.** If such lessee or holder of the right, location or licence or his agent objects to remedy the matter complained of in any notice under the last preceding section he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

Proceedings on failure to comply with notice.

**83.** If such lessee or holder or his agent fails to comply with the requisition of the notice, where no objection is stated within the time aforesaid, or with the decision of the Commissioner or other officer as aforesaid, immediately after the expiration of the time for objection or the decision (as the case may be), he shall be liable to a penalty not exceeding seven hundred and fifty pounds.

Agreement not to preclude or exempt.

**84.** No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Proceedings in case of accidents.

**85.** (1) Whenever an accident shall occur in connexion with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident the magistrate shall hold an inquiry into the cause thereof.

(3) The magistrate holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

**86.** (1) If the person killed or injured is a native employed in connexion with the mining or prospecting operations, and the lessee, or holder of the location, licence, or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

Compensation on death of, or injury to, native.

(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.

#### PART VII.

##### MISCELLANEOUS.

**87.** In any case where the Government is acquiring, under the provisions of any law relating to the compulsory acquisition of land for the time being in force in the Colony, any land held under a lease or location, compensation shall be payable in respect of any disturbance of mining rights, in addition to any other compensation.

Compensation on acquisition of land by Government.

**88.** The Governor may at any time remove from Crown land, subject to any lease or location, any clay, gravel, stone, brushwood, timber or other materials required for any public works.

Power to remove materials

such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the persons and stock.

Proceedings on objection to comply with notice.

82. If such lessee or holder of the right, location or licence or his agent objects to remedy the matter complained of in any notice under the last preceding section he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

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Compensation on acquisition of land by Government.

88. The Governor may at any time remove from Crown land, subject to any lease or location, any clay, gravel, stone, brushwood, timber or other materials required for any public works.

Power to remove material.

## Subsequent grants.

89. The Governor may, notwithstanding the previous grant of any location, lease or licence over any land under this Ordinance, make any grant of such land which he is empowered by law to make: Provided that the person to whom any such grant may be made shall not be entitled to compensation for any disturbance of his rights under the grant by reason of the exercise by any lessee, or the holder of any location, right or licence under this Ordinance of any rights conferred upon him by such lease, location, right or licence:

Provided always that, before making such grant, the Governor shall give notice to the lessee, location- or licenceholder of his intention to make such grant.

## Protection of estate of deceased person, bankrupt, or lunatic.

90. (1) In any case where the holder of any lease, location or licence shall—

(i) die;

(ii) have a receiving order in bankruptcy made against him; or

(iii) be found to be a lunatic under the provisions of any law relating to lunacy for the time being in force in the Colony,

the obligations imposed upon such holder by this Ordinance and regulations thereunder shall not arise until after the expiration of ninety days—

(a) from the date of the grant of probate or the issue of letters of administration;

(b) from the date of the receiving order;

(c) from the date of the appointment of any manager of the estate of the lunatic so found,

as the case may be.

(2) Where the grant of probate or the issue of letters of administration, the receiving order, and the appointment of any manager of the estate of the lunatic shall occur beyond the Colony, the said period of ninety days shall run from the date of the recognition by the courts of this Colony of such probate or letters of administration, receiving order, or appointment of a manager.

## Payment of wages.

91. All wages due to any person employed by the holder of a prospecting right or (a) any location, lease, or exclusive prospecting licence shall be paid to such person in cash when due and in no case later than seven days thereafter without any deduction whatsoever, except for cash advances, payments on

orders given by the employee and goods supplied on the location, lease, or exclusive prospecting licence to the employee for his personal use.

92. No person, whether civil or military, while in the service of the Government or of the High Commissioner, shall directly or indirectly acquire or hold any right or interest under any prospecting right, exclusive prospecting licence, location or mining lease, and any right, licence or location or lease or other document or transaction purporting to confer any such right or interest on any such officer shall be null and void: Provided that a temporary employee may retain rights and interests acquired prior to accepting Government employment.

Government officers prohibited from acquiring rights.

93. (1) In the event of discovery of minerals by any person in the service of the Government or of the High Commissioner, the discoverer may peg, in the manner prescribed for pegging a location, an area, to be called a "Government Protection Area," not exceeding one square mile. Such discovery and pegging shall be forthwith reported to the Commissioner, and no person may thereafter prospect in such area without the consent of the Commissioner.

Discovery of mineral by Government servant.

(2) Authority to mine in any such Government Protection Area may be granted by the Governor in Council to such persons and subject to such terms and conditions as he may think fit.

94. Any person who shall place or deposit or be accessory to the placing or depositing of any minerals in any place with the intent to mislead any persons as to the payable nature of such place, or who shall mix or cause to be mixed with any ore, any valuable metal or substance whatsoever that will increase the value or in any way change the nature of the said ore, with intent to deceive, cheat or defraud shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one thousand pounds or to both.

Salting

95. Any person who in connexion with any return, statement or document in respect of which information is or may be required to be given under this Ordinance or the regulations wilfully or recklessly gives false information or makes a false

Penalty for false return, etc.

statement, whether oral or in writing, shall, if no other penalty is specifically provided, be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

Obstructing  
officer.

96. Any person who shall wilfully obstruct, hinder, assault or resist an officer, or any person duly authorized by an officer or a person authorized by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey an officer's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner or other officer when acting in a judicial capacity, shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding six months, or to both.

Penalty for  
interfering  
with mining,  
etc.

97. Any person who—

- (a) interferes with any mining or prospecting operations authorized by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance;
- (d) without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Ordinance or under any regulations made thereunder,

shall be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years, or to both.

Power of  
Commissioner  
to conduct  
prosecutions.

98. The Commissioner or any officer of the Mines Department may conduct or assist in conducting a prosecution for any offence against this Ordinance.

Power to  
arrest.

99. Any officer of the Mines Department may without warrant arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Ordinance: Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law.

100. Any person who commits any breach of any of the provisions of this Ordinance for which breach a penalty is not expressly provided, shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both.

General  
penalty.

101. The Governor in Council may make regulations in connexion with or for all or any of the matters or purposes following:—

Power to make  
regulations.

- (a) the manner in which applications for any right, licence, claim or lease which may be granted under this Ordinance shall be made and the forms to be used;
- (b) the information to be supplied by the applicants;
- (c) the classes of locations and leases;
- (d) the manner in which locations shall be marked off;
- (e) the manner in which protection areas may be acquired, their size and shape, the fees payable in respect thereof, and the period for which they may be held;
- (f) the shape of the areas over which exclusive prospecting licences may be granted;
- (g) the size and shape of the areas over which locations or mining leases may be granted;
- (h) the manner in which areas and boundaries shall be surveyed, marked and beacons and the fees payable in respect of such survey when performed by Government;
- (i) the working conditions to be applied to mining leases, locations and licences;
- (j) the construction and use of roads, tramways, and railways;
- (k) the construction and erection of houses, pits, shafts, machinery and other works to be used for prospecting or mining purposes;
- (l) the fencing off or rendering secure of any shaft, well, trench, tunnel, drive or other works constructed, erected or made for prospecting or mining purposes;
- (m) the grazing of cattle or other animals and the cutting down and use of timber for the purpose of carrying on prospecting and mining operations;

- (n) the safety and health of persons employed in mines and the carrying on of prospecting or mining operations in a safe, proper, sanitary and effectual manner;
- (o) the renewal, transfer, assignment and surrender of rights under licences, locations and mining leases;
- (p) the registration in the office of the Commissioner of mining leases, locations and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (q) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of locations and of exclusive prospecting licences;
- (r) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties and the manner and time of payment thereof;
- (s) the counting of development done on the area of one licence, location or lease towards development due to be done on the area of another licence, location or lease in the same ownership;
- (t) the disposal of any poisonous or noxious products the result of mining operations;
- (u) the procedure on an appeal to the Governor;
- (v) the fees to be paid in respect of any matter or thing done under this Ordinance;
- (w) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines;
- (x) the defiling or wasting of water, wherever situated and wherever obtained;
- (y) generally for the carrying into effect the purposes of this Ordinance.

## Repeals.

**102.** The Mining Ordinance, 1931, as amended by the Mining (Amendment) Ordinance, 1932, and the Mining (Amendment) (No. 2) Ordinance, 1932, is hereby repealed: Provided that, notwithstanding any such repeals, any right or title granted under the Mining Ordinance, 1925, may continue to be of full force and effect as prescribed by that Ordinance for a period of twelve months from the date on which this Ordinance comes into operation.

Passed in the Legislative Council the twenty-first day of December, in the year of Our Lord one thousand nine hundred and thirty-three.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. E. C. JON

Acting Clerk of the Legislative Council.

KENYA.  
No. 22



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

9<sup>th</sup> January, 1934.

Sir,

*(continued)*

with reference to paragraph 4 of Kenya despatch No. 349 of the 6th June last, in which I informed you that a Committee had been appointed under the Chairmanship of the Acting Commissioner of Mines to examine local mining legislation and to make recommendations for any amendments which might be deemed necessary to facilitate development of the Colony's mineral resources, I have the honour to transmit two authenticated copies of Ordinance No. LXXI of 1933 entitled an Ordinance to Consolidate and Amend the Law relating to Mining, which passed its third reading in the Legislative Council on the 21st December, 1933, and received assent on the 30th December, 1933, together with the legal report, in duplicate, prepared by the Attorney General.

2. In addition to the comparative table enclosed with the legal report, a copy of the mining law of the Colony showing the amendments made to it by the present Ordinance is also enclosed. Four copies of the report of the Committee appointed to examine the mining legislation are being transmitted under separate

cover ...

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP CONLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. I.

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No. 22



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1  
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COLONY AND PROTECTORATE OF KENYA



**REPORT OF THE COMMITTEE  
ON MINING LEGISLATION  
1933**

NAIROBI:  
PRINTED BY THE GOVERNMENT PRINTER  
1933

Report of the Committee on  
Mining Legislation  
1933

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Report of the Committee on  
Mining Legislation  
1933

**REPORT**  
OF THE  
**Committee on Mining Legislation, 1933**

YOUR EXCELLENCY,

We have the honour to invite Your Excellency's reference to letter No. S. MIN. 1 1 5 2 106 of the 31st May, 1933, as a result of which the following Committee was appointed:

The Acting Commissioner of Mines (*Chairman*),  
The Hon. Attorney General,  
The Hon. Provincial Commissioner, Nyanza,  
The Hon. Director of Public Works,  
The Hon. Mr. T. J. O'Shea,  
The Hon. Mr. Copway Harvey,  
Mr. W. T. Shapley,  
Colonel A. D. Stitt, D.S.O., M.C.,  
Mr. H. J. Snelgar (*Secretary*).

2. The Committee's Terms of Reference were:

"To examine and suggest legislation and to make recommendations for any requirements which may be deemed necessary to facilitate development of the Colony's Mineral Resources."

3. The Committee has held ten meetings as follows:

- (1) Nairobi, 29th July, 1933.
- (2) Kakamega, 26th and 27th July, 1933.
- (3) Nairobi, 3rd August, 1933.
- (4) Nairobi, 4th August, 1933.
- (5) Nairobi, 9th August, 1933.
- (6) Nairobi, 10th August, 1933.
- (7) Nairobi, 11th August, 1933.
- (8) Nairobi, 6th September, 1933.
- (9) Nairobi, 11th October, 1933.
- (10) Nairobi, 14th and 15th November, 1933.

4. Oral evidence was given by twenty-four witnesses and written evidence has been submitted by 33 persons as a result of a notification in the Press that criticism of the existing

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OF THE

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"To examine local mining legislation and to make recommendations for any requirements which may be deemed necessary to facilitate development of the Colony's Mineral Resources."

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4. Oral evidence was given by twenty-four witnesses and written evidence has been submitted by 33 persons as a result of a notification in the Press that criticism of the existing

Mining Law was invited. A Draft Bill and Regulations were circulated before our final meeting for criticism and met with most helpful response. We desire to express our thanks to those gentlemen who have furnished their views, which have been of very great assistance to us in our deliberations.

5. Mr. Murray Hughes, the Government Geologist, attended several of our meetings, and we wish to record our gratitude for much valued advice.

6. All evidence whether written or verbal has been recorded in full, so that every member of the Committee has been able to obtain a complete record of the proceedings. The evidence of the public was taken in open court, but that of mining officials was heard in closed committee.

7. The value of the evidence depends mainly on the practical experience of the witness, but it must be appreciated that many expert engineers have little or no practical experience either of pegging claims or of mining legislation; their duties lying mainly in underground mining problems and in reporting on the potentialities of mining propositions.

Naturally the evidence of these engaged in mining tended to recommend the easiest conditions for the industry, and the payment of the least possible fees to Government. Most of the witnesses were of opinion that mining is of such great indirect value to the Colony, that to tax it at all was suicidal. In spite of this bias most of the evidence was helpful and constructive.

8. The history of mining legislation in Kenya is, in brief, that the Mining Ordinance, 1912, was superseded in 1925 by an Ordinance based on the finding of a Select Committee of Legislative Council. The Law Society then pressed for uniformity of legislation in the neighbouring territories and the Kenya Ordinance, which appeared to operate most satisfactorily, was sent for approval to the Uganda Government. That Government, however, declined to adopt the Kenya code on the ground that a model Ordinance had been sent from the Colonial Office for general application to Crown Colonies. A copy of this model Ordinance was obtained and published in the Kenya *Official Gazette* for comment. The Uganda Government, however, suddenly announced their intention of adopting in lieu of the model Ordinance, one lately introduced by the Government of Tanganyika Territory and modelled on the Nigerian code. The Kenya Government thereupon, to maintain uniformity, came into line and also adopted the

Tanganyika Territory Ordinance. This was enacted in 1931 and eventually applied in March, 1932, together with regulations based on the Tanganyika Territory model.

The Committee recognized the desirability of maintaining uniformity of legislation in mining with neighbouring territories, but decided that this desire for uniformity should in no way restrict or limit the report: that if entirely fresh mining legislation was found to be required, or a reversion to a previous code justified in the interests of the Colony, it must report accordingly.

However, as the deliberations of the Committee advanced, it was found that there was no need to recommend any substantial departure from the existing Mining Ordinance (No. 1 of 1931) or even to advise alterations of many details of the Revised Regulations which have been in force in Kenya since the 30th August, 1932.

9. The considered views of the Committee are embodied in a Draft Bill and suggested Regulations will be submitted in due course. In submitting these views, however, we feel that it is necessary to set forth the reasons which led to their adoption, in so far as the more important points of departure from existing law are concerned.

10. The main objections to the existing code are practically summarized in the memorandum submitted by the Kenya Miners' Association, and are in effect that—

- (1) the system of requiring exposure of "reef in place" before pegging a reef claim is impracticable;
- (2) the prospector needs protection from interference when working in the open field;
- (3) the royalty of 5 per cent on all gold produced is frightening away capital, and is too heavy a burden on a new industry;
- (4) the law does not allow the holder of a claim to work both reef and alluvial propositions thereon simultaneously or to let one of them out to tribute;
- (5) that transfer fees, claim licences, etc., are too heavy a burden.

11. We propose to meet these difficulties by—

- (1) a reversion to blind pegging and protection notices;
- (2) to guard against abuse of blind pegging by the imposition of more stringent development conditions;

Mining Law was invited. A Draft Bill and Regulations were circulated before our final meeting for criticism and met with most helpful response. We desire to express our thanks to those gentlemen who have furnished their views, which have been of very great assistance to us in our deliberations.

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7. The value of the evidence depends mainly on the practical experience of the witness, but it must be appreciated that many expert engineers have little or no practical experience either of pegging claims or of mining legislation; their duties lying mainly in underground mining problems and in reporting on the potentialities of mining propositions.

Naturally the evidence of these engaged in mining tended to recommend the easiest conditions for the industry, and the payment of the least possible fees to Government. Most of the witnesses were of opinion that mining is of such great indirect value to the Colony, that to tax it at all was suicidal. In spite of this bias most of the evidence was helpful and constructive.

8. The history of mining legislation in Kenya is, in brief, that the Mining Ordinance, 1912, was superseded in 1925 by an Ordinance based on the finding of a Select Committee of Legislative Council. The Law Society then pressed for uniformity of legislation in the neighbouring territories and the Kenya Ordinance, which appeared to operate most satisfactorily, was sent for approval to the Uganda Government. That Government, however, declined to adopt the Kenya code on the ground that a model Ordinance had been sent from the Colonial Office for general application to Crown Colonies. A copy of this model Ordinance was obtained and published in the Kenya *Official Gazette* for comment. The Uganda Government, however, suddenly announced their intention of adopting in lieu of the model Ordinance, one lately introduced by the Government of Tanganyika Territory and modelled on the Nigerian code. The Kenya Government thereupon, to maintain uniformity, came into line and also adopted the

Tanganyika Territory Ordinance. This was enacted in 1931 and eventually applied in March, 1932, together with regulations based on the Tanganyika Territory model.

The Committee recognized the desirability of maintaining uniformity of legislation in mining with neighbouring territories, but decided that this desire for uniformity should in no way restrict or limit the report: that if entirely fresh mining legislation was found to be required, or a reversion to a previous code justified in the interests of the Colony, it must report accordingly.

However, as the deliberations of the Committee advanced, it was found that there was no need to recommend any substantial departure from the existing Mining Ordinance (No. 1 of 1931) or even to advise alterations of many details of the Revised Regulations which have been in force in Kenya since the 30th August, 1932.

9. The considered views of the Committee are embodied in a Draft Bill and suggested Regulations will be submitted in due course. In submitting these views, however, we feel that it is necessary to set forth the reasons which led to their adoption, in so far as the more important points of departure from existing law are concerned.

10. The main objections to the existing code are practically summarized in the memorandum submitted by the Kenya Miners' Association, and are in effect that—

- (1) the system of requiring exposure of "reef in place" before pegging a reef claim is impracticable;
- (2) the prospector needs protection from interference when working in the open field;
- (3) the royalty of 5 per cent on all gold produced is frightening away capital, and is too heavy a burden on a new industry;
- (4) the law does not allow the holder of a claim to work both reef and alluvial propositions thereon simultaneously or to let one of them out to tribute;
- (5) ~~that~~ transfer fees, claim licences, etc., are too heavy a burden.

11. We propose to meet these difficulties by—

- (1) a reversion to blind pegging and protection notices;
- (2) to guard against abuse of blind pegging by the imposition of more stringent development conditions;

- (3) a reduction of royalty;
- (4) to give power to the Commissioner of Mines to enable him to permit the working of a class of mineral other than that for which a claim was pegged. This principle is admitted under a lease by clause 54 of the current Ordinance;
- (5) the reduction of transfer fees and the abolition of claim licences.

12. The main attack on the existing Regulations was directed against the necessity for the exposure of "reef in place." The definition of "reef" in the Ordinance is—

"'lode' or 'reef' includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous blankets, stockworks, such irregular deposits as conform generally to the above classification and beds of any mineral, such as beds of iron-stone."

The definition of "reef in place" in the Regulation is—

"a body of ore-bearing vein stone, contained within defined boundaries in the mass of the earth, all ores known as 'float ores' which have been removed from their original place of deposit being excluded",

and its discovery is an essential preliminary to obtaining protection from interference whilst pegging reef claims.

The definition of "ore"—

"all forms of minerals or mineral aggregates of economic value",

has caused trouble and eventually an official interpretation was published to the effect that the presence of even microscopic traces of precious minerals in reef justified the pegging of a reef claim.

As, however, certain classes of rock generally contain minute traces of precious elements, this interpretation meant that exposures of these classes of rock could be pegged as reef, and as a preventative of blind pegging has proved a failure. It should, however, be noted that this definition was not adopted by the Commissioner until recently.

It is manifestly unfair to leave to the inspectorate staff the invidious task of deciding whether a reef contains minute traces of gold, especially in view of the fact that a barren reef may develop into a rich one, and vice versa.

To quote from a memorandum contained in a despatch from the Secretary of State of 17th January, 1932:—

"Actual discovery of mineral at the surface should not be made requisite: it is often impossible where there may be good geological evidence of mineral at depth. Discovery of mineral is also extremely difficult to define."

Discovery of reef in place is insisted on in Rhodesia and the United States of America, but the code prevailing in the United States cannot be taken as a precedent, as mineral rights pass with the land and are not reserved by the State, as they are by the Crown in most Crown Colonies, and in the greater part of Kenya. In certain states of Canada the reef in place system was adopted, but eventually discarded owing to the difficulty of interpretation.

The Committee, therefore, agrees that the enforcement of more stringent development conditions would adequately protect the Colony from blind or speculative pegging, and recommends that the regulations governing the amount of footage to be effected should be increased, and that an affidavit should be required every six months from the holder of the mining location that this amount of development has been effected, on penalty of possible forfeiture of the location concerned.

The Commissioner already has powers to reduce the amount of development to be effected in cases of hardship or economic advantage.

13. A corollary to sanction of blind pegging is provision of protection while prospecting. There would be less speculative and uneconomic pegging if the prospector were able to investigate more thoroughly and more leisurely the area which he hopes to acquire under mining title.

It is, therefore, agreed that forms of protection should be provided suitable primarily (a) for the prospector; (b) the syndicate, partnership or company with moderate capital, and (c) for the wealthy well-equipped mining prospecting and development companies.

Immediate protection is essential if "blackmail" pegging in the areas required is to be avoided.

The Committee is, therefore, agreed that protection should be granted to the prospector over an area radiating from a notice erected by him, on payment of a fee and on registration within the shortest practicable period.

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A demarcated rectangular parallelogram was found to be impracticable though in theory more desirable than a circle of protection.

14. With regard to Exclusive Prospecting Licences we recommend that the Governor should delegate his powers to the Commissioner of Mines for areas not exceeding eight square miles in extent. It is understood that this is the practice in Tanganyika Territory.

15. Excess work on one location should be allowed to count towards work for another adjoining location at the discretion of the Commissioner of Mines, and with his consent. It was thought preferable to make this provision discretionary now that blind pegging is recommended, in order to obviate the sterilization of large areas pegged for speculative purposes whilst statutory development is effected only on one portion thereof. The Commissioner would only allow excess development on one location to count towards fulfilment of development conditions on other adjoining locations when satisfied that there is a progressive programme of work that would justify his allowing certain locations to remain temporarily undeveloped.

16. The question of royalty is one of extreme difficulty and is the one point on which we have been unable to arrive at unanimity. A tax on profits or on output appear to be the only alternatives to a flat rate, which might restrict production from low grade ores. It appeared to us that the recommendations from England in favour of a flat rate increasing with the premium on gold were possibly based on the false premises that gold mining in this Colony had benefited from the enhanced premium whereas in point of fact, practically all mining operations in Kenya commenced when gold had already reached Sh. 120 per fine ounce. The majority of the Committee, therefore, recommended that the proposals of Mr. Murray Hughes' scheme (Appendix A) should be adopted, i.e. a royalty adjusted to the grade of ore extracted with the proviso that the Governor should be able to reduce this royalty where circumstances justified the reduction.

17. With regard to fees, and in keeping with our desire to reduce fees generally, especially if a royalty is retained, we recommend that—

- (a) the registration of claim fees should remain as they are, and that an annual renewal fee of the same amount should be enforced;

- (b) the charge of Sh. 10 per claim for transfers of large numbers of claims appears unduly onerous, and should be reduced to Sh. 2 a claim;
- (c) the fee of Sh. 20 for compounding development should be excised and development, subject always to the Commissioner's power of remission, should be required;
- (d) claim licences of Sh. 10 per mensem on all claims worked for profit entail much work by the staff with but little return and are perhaps, in addition to royalty, vexatious and should be excised.

18. The need for greater security of mining title in order to attract capital has been stressed, but perhaps undue emphasis has been laid on this difficulty owing to the fact that Government has hitherto been unable to consider the grant of mining leases in native reserves until the report of the Carter Commission has been published and considered.

As laws and regulations are liable to amendment, leasehold gives the only secure title, and every encouragement should be given to miners to apply for leases when such are obtainable. Meantime it is clear from the existing law and regulations that a claim title is good until it is abandoned by the holder or declared to be forfeited by the Commissioner. No change in the provisions appears to be necessary.

19. It is recommended that the system of locations as the group unit of claims should be retained as the unit for development requirement and that the external beacons only of locations should be made permanent and maintained. Reduction of the height of the beacons to enable them to be straddled by a surveyor's theodolite is also recommended.

20. Owing to the fact that mining commenced, and is likely to continue, in native reserves, it is essential to restrict surface rights to a minimum. Provision is, therefore, made (vide clause 60 of the Bill) for additional subterranean leases (adjoining or surrounding a lease over the surface) with no surface rights beyond certain easements over the land above the subterranean area.

21. It will be noted that we have recommended the excision of section 93 of the existing Ordinance as we felt that the prohibition of Government servants acquiring rights should emanate from Service Regulations as apart from the Mining Law.

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21. It will be noted that we have recommended the excision of section 93 of the existing Ordinance as we felt that the prohibition of Government servants acquiring rights should emanate from Service Regulations as apart from the Mining Law.

22. We most strongly recommend that the Mining and Geological Department should not be absorbed into any other Government Department, but should have an entity of its own. Weight of evidence was very strongly in favour of this recommendation and we are unanimous in giving it our entire support. It is felt that the personal and undivided attention of the Commissioner of Mines is essential to the development of the mining industry of Kenya.

23. Appendix B shows a table of comparison between the clauses of the existing Ordinance and those of the suggested Bill.

24. It is the desire of the Committee that all existing prospecting or mining titles (with the exception of mining leases, of which there are only two) granted under the Mining Ordinance, 1912, should be brought under the new law, as we believe that this will cause no hardship, and will make for easier administration.

25. The signatories to this report have signed subject to their signatures on the minority report attached.

We have the honour to be,

Sir,

Your Excellency's obedient servants,

E. B. HOSKING,

*Chairman.*

W. HARRAGIN,

H. L. SIKES,

H. R. MONTGOMERY,

CONWAY HARVEY,

THOS. J. O'SHEA,

W. T. SHAPLEY,

ALAN D. STITT,

*Members.*

Nairobi,

16th November, 1933.

I have signed the above Report, though I only attended the last meeting of the Committee, as I am in general agreement with its terms. I beg, however, to be permitted to reserve an entirely open mind on the subject of royalties and the excision of section 93 from the Ordinance.

W. HARRAGIN,

*Attorney General.*

Nairobi,

16th November, 1933.

## Committee on Mining Laws and Regulations, 1933

### MINORITY REPORT

We, the undersigned, confirm the report drafted by the Acting Commissioner of Mines, except in so far as that report conflicts with our views and recommendations as expressed immediately below:—

#### *Re* ROYALTY.

(a) We are of opinion that no royalty should be charged for a period of at least twenty years and that thereafter Government should be entitled to charge a royalty up to the maximum scale as proposed in an appendix prepared by Mr. Murray Hughes, attached to the Report.

Our reasons, very briefly, for expressing this view are that, having regard to the situation of the Kakamega and adjacent goldfields, the Government railway monopoly, the Customs duties imposed, and the general system of taxation in operation in the Colony, that the prospects of Government net revenue would be enormously enhanced by not imposing any direct imposition in the form of royalty upon the Mining Industry during its infancy and that Government should rely solely upon the immense indirect revenue that it derives through the Railway, Customs, etc., from every form of new enterprise and introduction of new capital, with its incidental, but very important benefit to the native population.

(b) In the event of Government being unable to see its way to accede to charging no royalty, as set out in (a) above, we would prefer to see some scale of royalty introduced upon either the Murray Hughes plan above referred to or some other simple scale calculated upon the gold premium above Sh. 120 per ounce, provided that any such scale, whether following the Murray Hughes scale or any other form of scale should provide generous exemption for the small mine, and in any event the scale throughout, whether a mine be great or small should be at a rate very much under the scale proposed by Mr. Murray Hughes.

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## APPENDIX A.

SUGGESTIONS AS TO ROYALTY PROPOSALS  
SUBMITTED BY MR. R. MURRAY HUGHES.

(a) Should the total value of output gained by the holder of—

(1) a reef claim not exceed £100;

(2) an alluvial claim not exceed £20 in any one month, the holder shall retain such output for his own benefit.

(b) Should the value exceed £100 and not exceed £1,500, the holder shall pay  $\frac{2}{3}$  per cent of the total value.

(c) Should the value exceed £1,500 and be the product of ore yielding not more than one ounce, the holder shall pay 4 per cent.

(d) Should the value exceed £1,500 and be the product of ore yielding more than one ounce, the holder shall pay 5 per cent.

(e) Should the value exceed £1,500 and be the product of not less than 5,000 tons of ore yielding a not greater value than 5 dwt. (or Sh. 30 worth of mineral), the rate to be  $\frac{3}{4}$  per cent of the total value.

(f) Should the value exceed £1,500 and be the product of not less than 10,000 tons of ore of less than  $\frac{3}{4}$  dwt. value (or Sh. 20 worth of mineral) the rate to be  $\frac{2}{3}$  per cent.

(g) Proposals (b), (c), (d), (e) and (f) to be subject to a reduction of  $\frac{1}{2}$  per cent if the ore is drawn from a shaft the depth of which is greater than 1,000 feet and to a reduction of 1 per cent if ore is drawn from a shaft the depth of which exceeds 2,000 feet.

Where a company's operations can be shown to be substantially prejudicially affected by the royalties as laid down above, application may be made to the Governor for a revision of the terms.

Such application must be accompanied by a certified statement showing:—

1. Capitalization.
2. Working profit per ton.
3. Annual tonnage treated.
4. Estimated life of mine.

A redemption factor of 4 per cent will be allowed in the final decision made.

## SCHEDULE

Clauses of the Mining Bill, 1933, compared with those of the Mining Ordinance, 1931

1933 Clause No.	1931 Clause No.	Remarks
1	1	Adjusted.
2	2	Definitions of "claims", "Government Notice", "prescribed", "persons", "shaft and pit", omitted; of "engineer", "protection area", and "stock", added; of "salt-lick" altered.
2 (2)	14	
3	4	
4	5	
6	6	
7	13	Adds "or mining" to enable conditions stipulated under (i) to continue under mining also. (g) altered by insertion of "within 30ft. of the centre of a highway" to protect roads from dangerous pits.
8	7	
9	8	"Mining engineer" added; reworded.
10	9	
11	10	
12	11	Proviso exempting samples for assay from royalty added.
13	12	
14	15	Diamonds excluded from general prospecting; (6) "protection area" added.
15	16	"stock" added, compensation payable for damage thereto.
16	17	
17	18	(1) For "person", "company, body of persons, partnership or any person" substituted to allow of applications being made by such bodies. (5) Maximum for renewal of an exclusive prospecting licence increased from three to five years and provision made for an extension of thirty days when an application for renewal is refused, to enable the holder to mark off and register any claims he wishes to retain.
18	19	
19	20	
20	21	
21	24	(2) added to allow the Commissioner to recommend forfeiture if the licence is not worked diligently.
22	25	Adds "and alluvial mining if any" as provision is made for mining under alluvial exclusive prospecting licence.
23	23	Adds exception to allow of minerals being retained when alluvial mining is permitted under an exclusive prospecting licence.
24	61	Adds provision for reporting the discovery only of minerals other than those for which the location was granted and only when of economic value.
25	26	"stock" added as in 15. (5) "right to work a location" added to the rights that the Governor may suspend.
26	27	
27	28	Altered to allow of mining under an alluvial exclusive prospecting licence. (2) to restrict pegging of locations to the holders of prospecting rights.

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(d) Should the value exceed £1,500 and be the product of ore yielding more than one ounce, the holder shall pay 5 per cent.

(e) Should the value exceed £1,500 and be the product of not less than 5,000 tons of ore yielding a not greater value than 5 dwt. (or Sh. 30 worth of mineral), the rate to be  $3\frac{1}{2}$  per cent of the total value.

(f) Should the value exceed £1,500 and be the product of not less than 10,000 tons of ore of less than  $3\frac{1}{2}$  dwt. value (or Sh. 20 worth of mineral) the rate to be  $2\frac{1}{2}$  per cent.

(g) Proposals (b), (c), (d), (e) and (f) to be subject to a reduction of  $\frac{1}{2}$  per cent if the ore is drawn from a shaft the depth of which is greater than 1,000 feet and to a reduction of 1 per cent if ore is drawn from a shaft the depth of which exceeds 2,000 feet.

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15	16	"stock" added, compensation payable for damage thereto.
16	17	
17	18	(1) For "person", "company, body of persons, partnership or any person" substituted to allow of applications being made by such bodies.
		(5) Maximum for renewal of an exclusive prospecting licence increased from three to five years and provision made for an extension of thirty days when an application for renewal is refused, to enable the holder to mark off and register any claims he wishes to retain.
18	19	
19	20	
20	21	
21	24	(2) added to allow the Commissioner to recommend forfeiture if the licence is not worked diligently.
22	25	Adds "and alluvial mining if any" as provision is made for mining under alluvial exclusive prospecting licence.
23	23	Adds exception to allow of minerals being retained when alluvial mining is permitted under an exclusive prospecting licence.
24	64	Adds provision for reporting the discovery only of minerals other than those for which the location was granted and only when of economic value.
25	26	"stock" added as in 15.
		(5) "right to work a location" added to the rights that the Governor may suspend.
26	27	
27	28	Altered to allow of mining under an alluvial exclusive prospecting licence.
		(2) to restrict pegging of locations to the holders of prospecting rights.

1933 Clause No.	1931 Clause No.	Remarks
27 <i>contd.</i>	28 <i>contd.</i>	(3) to permit of alluvial mining on lode locations and vice versa at the discretion of the Commissioner. (4) to restrict such alternative mining.
23	29	Rent reduced from five shillings an acre to two shillings fifty cents an acre.
29	32	(3) added, forfeiting rights if a location is not registered in time and imposing penalty for working thereon.
30	33	Provisos deleted as being superfluous, and limit of renewal of locations up to maximum of five years inserted to prevent indefinite tenure of locations without conversion into leasehold.
31	36	Provision added requiring payment before trees are cut.
32	58	
33	38	
34	39	(1) (a) "or renewal" added.
		(2) added, defining procedure before forfeiture.
35	40	(2) "stock" added as in 15.
		(3) added, failure to renew or to apply for registration to count as abandonment.
36	67	
37	..	New section to provide for a lapse of time before an area can be repegged. This is to allow time to make sure that the area is open to prevent the previous holder avoiding development conditions by abandoning and repegging.
38	41	
39	42	
40	43	Altered to exclude exclusive prospecting licence areas from leases; locations must be registered before a lease.
41	44	
42	45	
43	46	
44	47	Proviso omitted.
45	48	Proviso altered to disallow any increase of rent on renewal.
46	51	
47	52	
48	53	General rights added under lease.
49	54	
50	55	
51	56	Reworded. "Native village" excised as undefinable and as there is already sufficient protection.
52	57	
53	58	
54	49	
55	60	(3) provision for written notice made in forfeiting lease.
56	59	Ore more clearly defined as ore at grass or excavated.
57	66	
58	67	
59	61	
60	62	Proviso added enabling the grant of subterranean leases without full surface rights, but with certain easements over the subterranean area, which is sterilized to general prospecting. This is to reduce the issue of surface leases to a minimum and yet to allow of sub-surface development without surface disturbance.

1933 Clause No.	1931 Clause No.	Remarks
61	63	Penalty for non-payment of rent reduced from twenty-five to ten per centum.
62	64	
63	65	
64	..	
Pt. IV	Pt. IV	
	<i>passim</i>	All dealings to be registered, otherwise invalid. "Warden" substituted for "Commissioner", in order to allow an appeal to the Commissioner from the decision of a Warden. When the Commissioner's powers were delegated the only appeal lay to the Supreme Court.
65	68	
66	69	
67	70	
68	71	
69	..	Provision for appeal to the Commissioner.
70	72	(2) Provision for appeal out of time inserted.
71	73	
72	74	
73	75	Exclusive prospecting licence added, see 22.
74	76	
75	77	
76	78	
77	79	
78	80	
79	81	
80	82	"Mining engineer" added.
81	83	
82	84	
83	85	
84	86	
85	87	
86	88	(2) Reworded for clarity, provision for appeal added.
87	89	
88	90	
89	91	
90	92	
91	..	New section making provision for payment of wages when due.
92	93	
93	94	
94	95	
95	..	Penalty inserted for making of false returns.
96	96	
97	97	
98	98	
99	99	
100	100	
101	101	(e) enabling protection areas to be granted added, subsections thereafter relettered; old (r) excised as superfluous; old (s) altered.
102	102	Adjusted. Provision is made for keeping alive the claims pegged under the 1925 Ordinance for twelve months to enable leases to be granted before the claims lapse or are registered under the new Ordinance.

1933 Clause No.	1931 Clause No.	Remarks
27 <i>contd.</i>	28 <i>contd.</i>	(3) to permit of alluvial mining on lode locations and vice versa at the discretion of the Commissioner.
23	29	(4) to restrict such alternative mining. Rent reduced from five shillings an acre to two shillings fifty cents an acre.
29	32	(3) added, forfeiting rights if a location is not registered in time and imposing penalty for working thereon.
30	33	Provisos deleted as being superfluous, and limit of renewal of locations up to maximum of five years inserted to prevent indefinite tenure of locations without conversion into leasehold.
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33	38	
34	39	(1) (a) "or renewal" added.
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36	67	
37	..	New section to provide for a lapse of time before an area can be repegged. This is to allow time to make sure that the area is open to prevent the previous holder avoiding development conditions by abandoning and repegging.
38	41	
39	42	
40	43	Altered to exclude exclusive prospecting licence areas from leases; locations must be registered before a lease.
41	44	
42	45	
43	46	
44	47	Proviso omitted.
45	48	Proviso altered to disallow any increase of rent on renewal.
46	51	
47	52	
48	53	General rights added under lease.
49	54	
50	55	
51	56	Reworded. "Native village" excised as undefinable and as there is already sufficient protection.
52	57	
53	58	
54	49	
55	60	(3) provision for written notice made in forfeiting lease.
56	59	Ore more clearly defined as ore at grass or excavated.
57	66	
58	67	
59	61	
60	62	Proviso added enabling the grant of subterranean leases without full surface rights, but with certain easements over the subterranean area, which is sterilized, so general prospecting. This is to reduce the issue of surface leases to a minimum and yet to allow of sub-surface development without surface disturbance.

1933 Clause No.	1931 Clause No.	Remarks
61	63	Penalty for non-payment of rent reduced from twenty-five to ten per centum.
62	64	
63	65	
64	..	All dealings to be registered, otherwise invalid.
Pt. IV	Pt. IV	"Warden" substituted for "Commissioner", in order to allow an appeal to the Commissioner from the decision of a Warden. When the Commissioner's powers were delegated the only appeal lay to the Supreme Court.
	<i>passim</i>	
65	68	
66	69	
67	70	
68	71	
69	..	Provision for appeal to the Commissioner.
70	72	(2) Provision for appeal out of time inserted.
71	73	
72	74	
73	75	Exclusive prospecting licence added, <i>see</i> 22.
74	76	
75	77	
76	78	
77	79	
78	80	
79	81	
80	82	"Mining engineer" added.
81	83	
82	84	
83	85	
84	86	
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86	88	(2) Reworded for clarity, provision for appeal added.
87	89	
88	90	
89	91	
90	92	
91	..	New section making provision for payment of wages when due.
92	93	
93	94	
94	95	
95	..	Penalty inserted for making of false returns.
96	96	
97	97	
98	98	
99	99	
100	100	
101	101	(z) enabling protection areas to be granted added, sub-sections thereafter relettered; old (r) excised as superfluous; old (s) altered.
102	102	Adjusted. Provision is made for keeping alive the claims pegged under the 1925 Ordinance for twelve months to enable leases to be granted before the claims lapse or are registered under the new Ordinance.

N.B.—*Passim*: "Claim" altered to "location".

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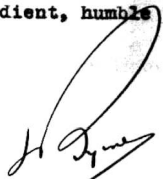
CO.

cover together with twelve printed copies of the Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

A handwritten signature in dark ink, appearing to read 'H. P. Jones', written in a cursive style. The signature is positioned above the typed name and title.

BRIGADIER GENERAL.  
GOVERNOR.

cover together with twelve printed copies of the Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER GENERAL.  
GOVERNOR.

LEGAL REPORT

THE MINING BILL, 1933.

The object of this Bill is to amend, re-arrange in more logical sequence and consolidate the laws relating to mining, and to bring all mining activities under one law.

The Bill is the result of the recommendations of a Committee appointed to investigate the operation of existing mining laws; there is no substantial departure from the existing law and the Bill closely approximates to the law at present in force in Tanganyika Territory and Uganda.

The main points of difference are the exclusion of diamonds from general prospecting, added safeguards for natives in whose reserves mining may take place and provisions for protection areas, for subterranean leases for permission to work two classes of claim under one title, for reduced rents under a lease, for Wardens to try cases with an appeal to the Commissioner and for penalties for the submission of false returns.

A Comparative Table is enclosed, and a copy of the Mining law of the Colony as affected by this Bill is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

## THE MINING ORDINANCE, 1933.

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
1	1	Adjusted.
2	2	Definitions of "claim", "Notice", "prescribed", "person" and "shaft and pit" omitted; " of "engineer", "protection area" and "stock" added; " of "salt-lick", "minerals" and "mineral location" altered.
2 (2)	14	
3	4	
4	5	
5	3	
6	6	
7	13	Adds "or mining" to enable conditions stipulated under (i) to continue under mining also. (g) altered by insertion of "within 30 ft. of the centre of a highway" to protect roads from dangerous pits. (j) Power is given to the Governor to re-open excluded land from prospecting or mining.
8	7	
9	8	"Mining engineer" added; reworded.
10	9	
11	10	
12	11	

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
13	12	
14	15	Diamonds excluded from general prospecting;
15	16	(6) "protection area" added.
16	17	"stock" added, compensation payable for
17	18	damage thereto.
		(1) For "person", "company, body of persons,
		partnership or any person" substituted
		to allow of applications being made
		by such bodies.
		(5) Maximum for renewal of an exclusive
		prospecting licence increased from
		three to five years and provision made
		for an extension of thirty days when
		an application for renewal is refused,
		to enable the holder to mark off and
		register any <u>claims</u> he wishes to
		retain.
18	19	
19	20	
20	21	
21	24	(2) is re-worded to allow the Commissioner
		to recommend forfeiture if the licence
		is not worked diligently.
22	25	Adds "and alluvial mining if any "as provision
		is made for mining under alluvial exclusive
		prospecting licence.
23	23	Adds exception to allow of minerals being
		retained when alluvial mining is permitted
		under an exclusive prospecting licence.

? locations

Clauses. ●	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
24	61	Adds provision for reporting the discovery only of minerals other than those for which the location was granted and only when <sup>of</sup> economic value.
25	26	"stock" added as in 15. (5) "right to work a location" added to the rights that the Governor may suspend.
26	27	
27	28	(2) to restrict pegging of locations to the holders of prospecting right. (3) to permit of alluvial mining on lode locations and vice versa at the discretion of the Commissioner. (4) to restrict such alternative mining.
23	29	Rent reduced from five shillings an acre to two shillings fifty cents an acre.
29	32	(3) added, forfeiting rights if a location is not registered in time and imposing penalty for working thereon.
30	33	Provisos deleted as being superfluous, and limit of renewal of locations up to maximum of five years inserted to prevent indefinite tenure of locations without conversion into leasehold.
31	36	
32	58	Provision added requiring payment before trees are out.
33	38	
34	39	(1) (a) "or renewal" added. (2) added, defining procedure before forfeiture.
35	40	(3) added, failure to renew or to apply for

Clauses.

Corresponding  
Section of the  
Mining Ordinance,  
1931.

Remarks.

108

36	67	
37		New section to provide for a lapse of time before an area can be repegged. This is to allow time to make sure that the area is open to prevent the previous holder avoiding development conditions by abandoning and repegging.
38	41	
39	42	
40	43	
41	44	
42	45	
43	46	
44	47	
45	46	Proviso altered to disallow any increase of rent on renewal.
46	51	
47	52	
48	53	General rights added under lease.
49	54	
50	55	
51	56	Re-worded. "Native village" excised as undefinable and as there is already sufficient protection.
52	57	
53	58	Re-worded.
54	49	
55	60	(3) provision for written notice made in
56	59	forfeiting lease. Ore more clearly defined as ore at grass or excavated.

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
36	67	
37		New section to provide for a lapse of time
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		to allow time to make sure that the area
		is open to prevent the previous holder
		avoiding development conditions by aban-
		doning and repegging.
38	41	
39	42	
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41	44	
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43	46	
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52	57	
53	58	Re-worded.
54	49	
55	60	(3) provision for written notice made in
		forfeiting lease.
56	59	Ore more clearly defined as ore at grass or
		excavated.

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
57	66	
58		New.
59		New.
60	62	Proviso added enabling the grant of subterranean leases without full surface rights, but with certain easements over the subterranean area, which is sterilized to general prospecting. This is to reduce the issue of surface leases to a minimum and yet to allow of sub-surface development without surface disturbance.
61	63	Penalty for non-payment of rent reduced from twenty-five to ten per centum.
62	64	
63	65	
64		New Section. All dealings to be registered, otherwise invalid.
Part IV	Part IV.	"Warden" substituted for "Commissioner", in order to allow an appeal to the Commissioner from the decision of a Warden. When the Commissioner's powers were delegated the only appeal lay to the Supreme Court.
65	68	
66	69	(3) Provision made for reply.
67	70	
68	71	
69	72	(2) Provision for appeal to the Commissioner.
70	72	(2) Provision for appeal out of time inserted.
71	73	

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
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71	73	

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
72	74	
73	75	Exclusive prospecting licence added, see 22
74	76	
75	77	
76	78	
77	79	
78	80	
79	81	
80	82	"Mining engineer" added.
81	83	
82	84	
83	85	
84	86	
85	87	
86	88	(2) Re-worded for clarity, provision for appeal added.
87	89	
88	90	
89	91	
90	92	
91		New section making provision for payment of wages when due.
92	93	
93	94	
94	95	
95		New section; penalty inserted for making of false returns.
96	96	
97	97	
98	98	
99	99	

Clauses.	Corresponding Section of the Mining Ordinance, 1931.	Remarks.
100	100	
101	101	(e) enabling protection areas to be granted added, sub-sections thereafter re-lettered; old (r) excised as superfluous: old (s) altered.
102	102	Adjusted. Provision is made for keeping alive the claims pegged under the 1925 Ordinance for twelve months to enable leases to be granted before the claims lapse or are registered under the new Ordinance.

C O P Y  
OF  
THE MINING ORDINANCE, 1931, (INCLUDING ALL AMENDMENTS  
THERE TO) ON WHICH ~~IS~~ SHOWN THE VARIATIONS TO  
THE MINING LAW MADE BY THE MINING  
ORDINANCE, 1933.

-----

NOTE. - The amendments shown in black ink  
and in the printed slips underlined in black ink are  
the amendments made to the original Ordinance by  
Ordinances Nos.15 and 52 of 1932. Those shown in  
red ink and in the printed slips underlined in red ink  
are the amendments to the Mining Law made by the  
Mining Ordinance, 1933.

C O P Y  
O F  
THE MINING ORDINANCE, 1931, (INCLUDING ALL AMENDMENTS  
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red ink and in the printed slips underlined in red ink  
are the amendments to the Mining Law made by the  
Mining Ordinance, 1933.

**AN ORDINANCE.**

**No. 1 of 1931.**

Assented to in His Majesty's name this eleventh day of February, 1931.

H. M.-M. MOORE,  
*Acting Governor.*

[11TH FEBRUARY, 1931.] Date of assent.

**An Ordinance to Consolidate and Amend the Law Relating to Mining.**

*By Notice.*

Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Mining Ordinance, 1931," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. Short title and commencement.

**PART I  
GENERAL.**

2. (1) In this Ordinance, unless inconsistent with the context— Interpretation.

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"claim" means a portion of land lawfully taken possession of for the purpose of prospecting and mining, but does not include land comprised in a mining lease;

"Government" means the Government of the Colony;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

"claim" means a portion of land lawfully taken possession of for the purpose of prospecting and mining and forms the unit of a mining location;

"coal location" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;

"mining location" means a registered block of claims in respect of which mining rights may be acquired under a prospecting right;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

"claim" means a portion of land lawfully taken possession of for the purpose of prospecting and mining and forms the unit of a mining location;  
"coal location" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;  
"mining location" means a registered block of claims in respect of which mining rights may be acquired under a prospecting right;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

## AN ORDINANCE.

No. 1 of 1931.

Assented to in His Majesty's name this eleventh day of February, 1931.

H. M.-M. MOORE,  
Acting Governor.

[11TH FEBRUARY, 1931.] Date of assent.

### An Ordinance to Consolidate and Amend the Law Relating to Mining.

By Notice.

Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Mining Ordinance, 1931" and shall come into operation on such date as the Governor by notice in the Gazette shall determine.

Short title and commencement.

#### PART I

##### GENERAL.

2. (1) In this Ordinance, unless inconsistent with the context—

Interpretation.

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"claim" means a portion of land lawfully taken possession of for the purpose of prospecting and mining, but does not include land comprised in a mining lease;

"Government" means the Government of the Colony;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

same for the purposes of Part II of the Ordinance.

"mining location" means an area other than a coal location in respect of which mining rights may be acquired under a prospecting right in accordance with the provisions of this Ordinance.

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining is carried on;

"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals, precious stones or non-precious minerals, but shall not include clay, ~~murrum~~, lime, sand, or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance;

No. 9 of 1930. "Native Lands Trust Board" means the Native Lands Trust Board established under the Native Lands Trust Ordinance, 1930;

No. 9 of 1930. "Native Reserve" has the meaning assigned to it in the Native Lands Trust Ordinance, 1930;

"non-precious minerals" means all minerals other than precious metals or precious stones;

~~"notice" means a notice in the Gazette;~~

"open-cast" means any uncovered excavation which has been made from the surface for the purpose of winning minerals;

"owner" or "occupier" includes an owner in fee simple, a lessee, a grantee, a licensee and a native in lawful occupation of Crown land;

"person" includes corporation, company, syndicate or individual;

"precious metals" means gold, silver or metal of the platinum group in the unmanufactured state, including ores containing such metal, but shall not include ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;

"precious stones" means any diamond, emerald, opal, ruby, sapphire, turquoise and any other stones which the Governor in Council may by notice declare to be included in this definition;

~~"prescribed" means prescribed by this Ordinance or any regulations made thereunder;~~

"protection area" means an area which may be acquired as prescribed under a prospecting right.

"stock" includes cattle, sheep, goats, horses, swine, camels, mules, donkeys, dogs, or poultry.

Native Reserve

(2) For the purpose of this Ordinance, every Native Reserve shall be deemed to be private land, and the Native Lands Trust Board shall be deemed to be the owner. Provided that any moneys received by that Board by way of rents or compensation shall be devoted to the use of the natives concerned.

Section 14 of the 1931 Ordinance transferred here

"private lands" includes lands privately owned and land the subject of a grant, lease or licence from the Crown;

"to prospect" means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;

"the regulations" means the regulations <sup>made</sup> under this Ordinance;

"salt licks" means those <sup>deposits</sup> of salt or other mineral which have been or are being used as salt licks for <sup>cattle</sup>, whether privately owned or not;

"shaft" and "pit" mean any vertical or inclined ~~maneu~~, other than a slope or winze, which is or might be used for winding, travelling, draining or ventilating purposes in connection with prospecting or mining operations;

"tailings" means all gravel, sand, slimes, or other substance which is the residue of bona fide mining operations.

5. Nothing in this Ordinance shall be deemed to authorise any person to enter any district or area to which entrance by him may be forbidden by any law, Ordinance or regulation for the time being in force. Prospecting in closed districts.

3. Nothing contained in this Ordinance shall confer any right to prospect for or to win any mineral oil. Mineral oil excluded from this Ordinance.

4. The entire property in and control of all minerals and mineral oils in, under or upon any lands in the Colony are and shall be vested in the Governor in trust for His Majesty, save in so far as such right may in any case have been limited by any express grant made before the commencement of this Ordinance, or by any certificate of ownership issued or hereafter issued under the hand and seal of the Recorder of Titles. Control and property in minerals and mineral oils vested in the Governor.

6. Except as in this Ordinance provided, any person who shall prospect or mine on any lands in the Colony shall be liable to a fine of one hundred pounds or imprisonment for six months, and the forfeiture of all minerals obtained in the course of such unauthorised mining or prospecting, or if such minerals cannot be forfeited such sum as the court shall assess as the value of such minerals. Penalty for prospecting or mining without authority.

Nothing in this Ordinance shall be deemed to prevent any native of the Colony from taking, subject to such conditions as may be prescribed, iron, salt or soda from lands (other Saving for native custom.

"protection area" means an area which may be acquired as prescribed under a prospecting right.

"stock" includes cattle, sheep, goats, horses, swine, camels, mules, donkeys, dogs, or poultry.

Native Reserve

(2) For the purpose of this Ordinance, every Native Reserve shall be deemed to be private land, and the Native Lands Trust Board shall be deemed to be the owner. Provided that any moneys received by that Board by way of rents or compensation shall be devoted to the use of the natives concerned.

Section 14 of the 1931 Ordinance transferred land

"private lands" includes lands privately owned and land the subject of a grant, lease or licence from the Crown;

"to prospect" means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;

"the regulations" means the regulations <sup>made</sup> ~~made~~ under this Ordinance; *for the land being in force*

"salt licks" means those deposits of salt or other mineral which ~~have been or are being used~~ <sup>are used</sup> as salt licks for ~~cattle~~, whether privately owned or not;

"shaft" and "pit" mean any vertical or inclined tunnel, other than a slope or winze, which is or might be used for winding, travelling, draining or ventilating purposes in connection with prospecting or mining operations;

"tailings" means all gravel, sand, slimes, or other substance which is the residue of bona fide mining operations.

~~5~~ Nothing in this Ordinance shall be deemed to authorise any person to enter any district or area to which entrance by him may be forbidden by any law, Ordinance or regulation for the time being in force. *Prospecting in closed districts.*

~~3~~ Nothing contained in this Ordinance shall confer any right to prospect for or to win any mineral oil. *Mineral oil excluded from this Ordinance.*

~~4~~ The entire property in and control of all minerals and mineral oils in, under or upon any lands in the Colony are and shall be vested in the Governor in trust for His Majesty, save in so far as such right may in any case have been limited by any express grant made before the commencement of this Ordinance, or by any certificate of ownership issued or hereafter issued under the hand and seal of the Recorder of Titles. *Control and property in minerals and mineral oils vested in the Governor.*

6. Except as in this Ordinance provided, any person who shall prospect or mine on any lands in the Colony shall be liable to a fine of one hundred pounds or imprisonment for six months, and the forfeiture of all minerals obtained in the course of such unauthorised mining or prospecting, or if such minerals cannot be forfeited such sum as the court shall assess as the value of such minerals. *Penalty for prospecting or mining without authority.*

~~7~~ Nothing in this Ordinance shall be deemed to prevent any native of the Colony from taking, subject to such conditions as may be prescribed, iron, salt or soda from lands (other *Section 18 transferred here as section 7. Saving for native custom.*)

than lands within the area of a mining lease or claim) from which it has been the custom of the members of the community to which that native belongs to take the same.

Employment of officers. ~~9~~ 8. The Governor may appoint an officer to be styled the Commissioner of Mines (hereinafter referred to as "the Commissioner"), ~~and such other officers, to be known as Inspectors and Assistant Inspectors of Mines, Wardens and Registrars, as may be necessary for the carrying into effect of the provisions of this Ordinance.~~ *and such other officers, to be known as Inspectors and Registrars, as may be necessary for the carrying into effect of the provisions of this Ordinance.*

Powers of Commissioner may be exercised by other officers. 10. The Commissioner may, with the approval of the Governor, delegate or assign to any other officer appointed under section 8 all or any of his powers and duties.

No action lies against officers for acts done in execution of their duties. 11. No action or other legal proceeding whatsoever, civil or criminal, shall be instituted in any court against the Commissioner or other officer or any person acting under his authority for or on account of or in respect of anything done in good faith and in the execution or intended execution of his duty under this Ordinance.

Royalties. 12. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed.

" Provided that the Commissioner may by permit under his hand exempt from liability to royalties samples of minerals exported for the purposes of assay."

## PART II.

## A. - PROSPECTING.

Prospecting right.

13. (1) The Commissioner or ~~other prescribed officer~~ *only authorized by law in the* may issue to any person a prospecting right in the prescribed form upon the payment of the prescribed fee: Provided that a prospecting right shall not be granted—

- (a) to any person who is under eighteen years of age;
- (b) to any person who is unable to read or to any person who is incapable of understanding this Ordinance in such a way as to form a reasonable guide to and restriction on his actions.

~~(2) A prospecting right may be granted to an individual as agent for another individual.~~

(3) A prospecting right shall not be granted to a company or partnership as such, ~~but may be granted to an individual as agent of the company or partnership.~~ *body of persons* In such case the application for the prospecting right must be made by the

" (2) A prospecting right may be granted to an individual as agent for another individual if such agent is the lawfully constituted attorney of such individual."

individual in person, who must either be the lawfully constituted attorney of the company <sup>or partnership</sup> or produce an application in writing for the grant of the prospecting right to the individual as agent for the company or partnership, signed by a director or responsible manager or partner of the company or partnership. <sup>body of persons</sup> Such application must contain an undertaking <sup>to be published</sup> by the company or partnership with the Government to be responsible for the acts and omissions of the individual, who shall also be responsible for his own acts and omissions.

(4) A prospecting right shall not be transferable and shall be in force for a period of one year from the date of issue, ~~but may be renewed for a period of one year from the date of expiration thereof or of the expiration of any renewal thereof upon application being made in the prescribed form and upon payment of the prescribed fee.~~

(5) A prospecting right shall be produced whenever demanded by the owner or occupier of private land on which the holder thereof is prospecting, or by any administrative officer, officer of the Mines Department or police officer.

(6) A fee of twenty shillings shall be paid for every prospecting right.

7. 18- The following classes of land are (save where otherwise in this Ordinance provided) excluded from prospecting or occupation under any prospecting right - <sup>Lands excluded from prospecting or occupation</sup>

(a) Land dedicated or set apart as a place of burial or for any public purpose other than mining, except with the consent of the Governor.

(b) Any area situate within any municipality or township except with the consent of the owner or holder of surface rights and of the Governor or municipal or township authority <sup>or of the District Commissioner in the case of a township.</sup>

(c) Lands held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones which are recognised by the Government.

(d) Any area over which exclusive prospecting or mining rights have previously been granted by the Governor and are still subsisting <sup>and any area</sup> in respect of which an application in the prescribed form has been <sup>accepted for consideration</sup> made for such rights.

individual in person, who must either ~~be the~~ lawfully constituted attorney of the company ~~or partnership~~ or produce an application in writing for the grant of the prospecting right to the individual as agent for the company or partnership, signed by a director or responsible manager or partner of the company ~~or partnership~~. <sup>body of business</sup> Such application must contain an undertaking by the company ~~or partnership~~ with the Government to be responsible for the acts and omissions of the individual, who shall also be responsible for his own acts and omissions.

(4) A prospecting right shall not be transferable and shall be in force for a period of one year from the date of issue, ~~but may be renewed for a period of one year from the date of expiration thereof or of the expiration of any renewal thereof upon application being made in the prescribed form and upon payment of the prescribed fee.~~

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(6) A fee of twenty shillings shall be paid for every prospecting right.

7. 18- The following classes of land are (save where otherwise in this Ordinance provided) excluded from prospecting or occupation under any prospecting right - ~~mining~~ <sup>Lands excluded from prospecting</sup>

- (a) Land dedicated or set apart as a place of burial or for any public purpose other than mining, except with the consent of the Governor.
- (b) Any area situate within any municipality or township except with the consent of the owner or holder of surface rights and of the Governor or municipal or township authority <sup>or of the District Commissioner in the case of a township.</sup>
- (c) Lands held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones which are recognised by the Government.
- (d) Any area over which exclusive prospecting or mining rights have previously been granted by the Governor and are still subsisting and any area in respect of which an application <sup>has been made</sup> in the prescribed form has been ~~made for such rights.~~ <sup>accepted for such rights.</sup>

- (g) Any street, road or highway, or any land within 30 feet of the centre line of any street, road or highway, or land reserved for any public road or highway, without the consent of the Governor or of the municipal authority or other public body having the control thereof.

The Governor, at the request of the Native Lands Trust Board, may appoint any Provincial Commissioner to be the delegate within his province of the Native Lands Trust Board for the purposes of giving the consent in writing required by this paragraph.

provided that the Governor may refuse any land so excluded from prospecting or mining under such conditions as he may think fit.

- (1) prospect on any land in the Colony for any minerals, except diamonds, unless the Commissioner shall endorse on the prospecting right authority to prospect for diamonds; which authority the Commissioner may refuse in any case without assigning any reason:

Provided that the holder of a prospecting right shall not prospect in a forest or game reserve unless he has first given notice to the officer in charge of such reserve and complies with the conditions lawfully imposed by such officer:

- (e) Land reserved for the purpose of any railway or situate within one hundred yards of any railway, except with the consent of the Railway Administration.
- (f) Any area which is the site of or is within one hundred yards of any building, dam, or reservoir, owned by Government, except with the sanction of the Governor.
- (g) Any street, road or highway without the consent of the Governor or of the municipal corporation or other public body having the control thereof.
- (h) Salt licks which have been or are being used for cattle.
- (i) Land within a Native Reserve except with the consent in writing of the Native Lands Trust Board and on such conditions as may be prescribed.
- (j) Land which the Governor may by notice declare to be excluded from prospecting or mining:

Should any question arise as to whether any particular land is excluded under this section it shall be referred to the Governor, whose decision shall be final and conclusive.

Native Reserves.

Transferred to sub-section (2) of section 2

Prospecting right privileges.

14. For the purpose of this Ordinance, every Native Reserve shall be deemed to be private land, and the Native Lands Trust Board shall be deemed to be the owner: Provided that any moneys received by that Board by way of rents or compensation shall be devoted to the use of the natives concerned.

14. 15. Subject to the exceptions in section 13 and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supply, the holder of a prospecting right may—

- (1) prospect for any minerals on any land in the Colony;
- (2) whilst engaged in bona fide prospecting erect on any unoccupied land his camp and such buildings or machinery as may be necessary for the purpose of prospecting and for such purpose or for domestic purposes take timber and water from any lake, stream or water-course free of charge on unoccupied Crown lands or on private lands on payment of tender of a reasonable sum in proportion thereto.

- (g) Any street, road or highway, or any land within 30 feet of the centre line of any street, road or highway, or land reserved for any public road or highway, without the consent of the Governor or of the municipal authority or other public body having the control thereof.

The Governor, at the request of the Native Lands Trust Board, may appoint any Provincial Commissioner to be the delegate within his province of the Native Lands Trust Board for the purposes of giving the consent in writing required by this paragraph."

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- (1) prospect on any land in the Colony for any minerals, except diamonds, unless the Commissioner shall endorse on the prospecting right authority to prospect for diamonds, which authority the Commissioner may refuse in any case without assigning any reason;

Provided that the holder of a prospecting right shall not prospect in a forest or game reserve unless he has first given notice to the officer in charge of such reserve and complies with the conditions lawfully imposed by such officer;

- (e) Land reserved for the purpose of any railway or situate within one hundred yards of any railway, except with the consent of the ~~Railway Administration~~ <sup>Railway Administration</sup>.

- (f) Any area which is the site of or is within one hundred yards of any ~~building~~ <sup>dam or reservoir</sup>, dam or reservoir, owned by Government, except with the sanction of the Governor.

- (g) ~~Any street, road or highway without the consent of the Governor or of the municipal corporation or other public body having the control thereof.~~

- (h) Salt licks which have been or are being used for cattle.

- (i) Land within a Native Reserve except with the consent in writing of the Native Lands Trust Board and on such conditions as may be ~~prescribed~~ <sup>prescribed</sup>.

- (j) Land which the Governor may by notice declare to be excluded from prospecting ~~or mining~~.

Should any question arise as to whether any particular land is excluded under this section it shall be referred to the Governor, whose decision shall be final and conclusive.

Native Reserves.

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Prospecting Right Privileges.

14. Subject to the exceptions in section 13 and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supply, the holder of a prospecting right may—

- (1) prospect for any minerals on any land in the Colony;

- (2) whilst engaged in bona fide prospecting erect on any unoccupied land his camp and such buildings or machinery as may be necessary for the purpose of prospecting and for such purpose or for domestic purposes take timber and water from any lake, stream or water-course free of charge on unoccupied Crown lands or on private lands on payment of timber of a reasonable sum in payment thereof.

Provided that he shall not divert water from any head,  
stream or water course without the consent of the  
authority having the control thereof.

<sup>and protective area</sup>  
~~may also~~ (6) apply for an exclusive prospecting licence and  
apply for the registration of claims and locations  
and apply for a mining lease."

~~Provided that he shall not~~

- ~~(a) divert water from any river, stream or water course without the consent of the authority having the control thereof; or~~
- ~~(b) prospect in a forest or game reserve unless he has first given notice to the officer in charge of such reserve and complies with the conditions lawfully imposed by such officer;~~

(3) sink shafts or wells or dig trenches;

(4) on any land not excluded <sup>for</sup> prospecting take for his domestic use water from any lake, river or stream and, with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment thereof, a fuel other than standing timber;

(5) graze upon lands not excluded from prospecting such horses or other animals as may be necessary for his subsistence ~~and~~ for the carrying on of prospecting or mining, free of charge on unoccupied Crown lands and on private lands on payment or tender of a reasonable sum in payment thereof;

(6) ~~apply for an exclusive prospecting licence, claim or a mining lease.~~

<sup>15</sup> 18. Any person intending to prospect on private lands shall when practicable give notice of his intention to the occupier of such land before commencing prospecting operations thereon, and shall, if required by the owner or occupier, give security in such sum as the Commissioner may direct for the payment of compensation for the disturbance of surface rights ~~and for any~~ damage done to the lands or trees or crops thereon <sup>by the prospector</sup> and, if required by the owner or occupier, shall desist from prospecting on the land until such security has been given.

<sup>16</sup> 17. The holder of a prospecting right may apply to the Governor for an authority to prospect on any lands excluded from prospecting and the Governor may grant such authority on such terms as to area, period, rent and other conditions as he shall think fit. Failure to comply with any of the terms so fixed shall render the authority liable to cancellation.

Provided that he shall not divert water from any river, stream or water course without the consent of the authority having the control thereof.

~~(6) apply for an exclusive prospecting licence, and <sup>and protective lease</sup> apply for the registration of claims and locations and apply for a mining lease.~~

Provided that he shall not divert water from any river,  
stream or water course without the consent of the  
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and apply for a mining lease.~~

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having the control thereof; or~~
- ~~(b) prospect in a forest or game reserve unless he  
has first given notice to the officer in charge of  
such reserve and complies with the conditions  
lawfully imposed by such officer;~~

(3) sink shafts or wells or dig trenches;

(4) on any land not excluded ~~for~~ prospecting take for <sup>the purposes of bona fide</sup> his domestic use water from any lake, river or stream <sup>prospecting or for</sup> and, with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment thereof, pay fuel other than standing timber;

(5) graze upon lands not excluded from prospecting such horses or other animals as may be necessary for his subsistence ~~for~~ for the carrying on of prospecting or mining, free of charge on unoccupied Crown lands and on private lands on payment or tender of a reasonable sum in payment thereof;

~~(6) apply for an exclusive prospecting licence, claim or a mining lease.~~

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<sup>16</sup> 17. The holder of a prospecting right may apply to the Governor for an authority to prospect on any lands excluded from prospecting and the Governor may grant such authority on such terms as to area, period, rent and other conditions as he shall think fit. Failure to comply with any of the terms so fixed shall render the authority liable to cancellation. <sup>Authority to prospect on land excluded.</sup>

Company, body of persons, partnership or any)

No. 1

12

Exclusive prospecting licences.

*Mining*  
8. - Exclusive prospecting licence. 1981

18: (1) The Governor may grant an exclusive prospecting licence to any person who himself holds a prospecting right or to any person who ~~is~~ <sup>is not</sup> holder of a prospecting right.

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall satisfy the Governor that he has sufficient capital to ensure the proper prospecting of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers of the land in respect of which the licence is required and shall, if required by the Governor or by the regulations, furnish a financial guarantee for such sum as the Governor may direct or as may be prescribed. Notice of every such application shall be published in the Gazette.

(3) The Governor may grant or withhold the grant of an exclusive prospecting licence as he may think proper:

Provided that a person who has previously held such licence shall not within a period of one year after its expiry be granted a further licence in respect of any portion of the area in respect of which he has previously held a licence. This prohibition shall extend to any person associated with the former holder of the licence.

(4) An exclusive prospecting licence shall not be granted in respect of any area exceeding eight square miles:

Provided that ~~under special circumstances~~ the Governor may at his sole discretion grant exclusive prospecting licences over areas exceeding eight square miles upon such terms and conditions as he may think fit.

(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of three years in the case of an alluvial deposit, and of six years in the case of a lode deposit:

Provided that the Governor may, on such terms as he may think proper, grant a renewal of such licence in respect of an alluvial deposit for a fourth year if it be shown to his satisfaction that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee.

by methods approved by him

with and

(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject to submission of a programme of further development, to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of three years, provided

that, should the renewal be refused, the licence shall be valid for a further period of thirty days from the date at which it would otherwise have expired.

compliance of a satisfactory manner of

Company, body of persons, partnership or any)

No. 1

12

Exclusive prospecting licences.

*Mining*  
B - Exclusive prospecting licence.

1981

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(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall satisfy the Governor that he has sufficient capital to ensure the proper prospecting of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers of the land in respect of which the licence is required and shall, if required by the Governor or by the regulations, furnish a financial guarantee for such sum as the Governor may direct or as may be prescribed. Notice of every such application shall be published in the Gazette.

(3) The Governor may grant or withhold the grant of an exclusive prospecting licence as he may think proper:

Provided that a person who has previously held such licence shall not within a period of one year after its expiry be granted a further licence in respect of any portion of the area in respect of which he has previously held a licence. This prohibition shall extend to any person associated with the former holder of the licence.

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Provided that the Governor may, on such terms as he may think proper, grant a renewal of such licence in respect of an alluvial deposit for a fourth year if it be shown to his satisfaction that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee.

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by methods approved by him

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"(8) On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding in any case five shillings per square mile, shall be payable in addition to all other fees due."

and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet";

"(2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg ~~mining rights in the area~~ within the area of his licence as provided

~~Provided further that in the case of a lode deposit, the Governor may on any renewal of such licence direct that such renewal is allowed in respect of a specified portion only of the area of the licence.~~

(6) All exclusive prospecting licences shall be registered at the office of the Commissioner in the prescribed manner.

(7) For every exclusive prospecting licence there shall be paid a registration fee of ten shillings, and a conveyancing fee of seven pounds ten shillings.

~~18 20.~~ An applicant for an exclusive prospecting licence wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be given under this Ordinance shall be liable to a fine of one hundred pounds or to imprisonment for six months or to ~~both such fine and such imprisonment.~~ *Penalty for giving false information.*

~~19 20.~~ (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting upon the lands within the area of his prospecting licence, and for such purpose may— *Rights under an exclusive prospecting licence.*

(a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;

(b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and

(c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such ways as may be necessary for or in connection with his prospecting operations.

~~(2) The holder of an exclusive prospecting licence who shall have fulfilled all the conditions attached thereto may be granted, subject to the provisions of this Ordinance, a mining lease or leases over the whole or any part of the area the subject of the licence.~~

~~20 20.~~ The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Governor signified by an endorsement thereon. *Transfer of rights under licence.*

The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

~~Provided further that in the case of a lode deposit, the Governor may on any renewal of such licence direct that such renewal is allowed in respect of a specified portion only of the area of the licence.~~

(6) All exclusive prospecting licences shall be registered at the office of the Commissioner in the prescribed manner.

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~~19 20.~~ (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting upon the lands within the area of his prospecting licence, and for such purpose may— *Rights under an exclusive prospecting licence.*

(a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;

(b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and

(c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such ways as may be necessary for or in connection with his prospecting operations.

~~(2) The holder of an exclusive prospecting licence who shall have fulfilled all the conditions attached thereto may be granted, subject to the provisions of this Ordinance, a mining lease or lease over the whole or any part of the area the subject of the licence.~~

~~20 21.~~ The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Governor signified by an endorsement thereon. *Transfer of rights under licence.*

~~(3) The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.~~

"(8) On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding in any case five shillings per square mile, shall be payable in addition to all other fees due."

and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet";

"(2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to prospect for minerals within the area of his licence or prospecting licence."

Amalgamation  
of prospecting  
licence areas.

~~22. The Commissioner may permit the amalgamation of any number of duly registered adjoining exclusive prospecting licence areas.~~

Disposal of  
minerals  
obtained in  
prospecting.

~~23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall be the property of the Government and, except for the purpose of sampling and assay, shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner:~~

Any person who commits an offence against this subsection shall be liable to a fine of one hundred pounds or imprisonment for six months, or both.

(2) The Commissioner may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorise the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

*Transferred;  
now section  
23 of the new  
Act of 1981*

~~27. (1) The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations submitted to the Commissioner at the time of his application *to the Mineral Survey.*~~

Obligations of the holder of exclusive prospecting licence.

~~Provided that the Commissioner may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.~~

~~(2) Failure to exercise due skill and due diligence *to the satisfaction of the Commissioner* shall be a ground for cancellation of the licence.~~

~~(3) Whether due skill or due diligence is being shown shall be a matter within the discretion of the Commissioner, whose decision shall be final."~~

Obligation of  
the holder of  
exclusive  
prospecting  
licence.

~~24. The holder of an exclusive prospecting licence shall during the continuance of the licence adequately carry on to the satisfaction of the Commissioner bona fide prospecting operations on the lands included in the area in respect of which the licence has been granted:~~

Provided that the Commissioner may on the application of the holder and for good cause shown by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

Records of  
prospecting  
operations.

~~27.25. The holder of an exclusive prospecting licence shall keep to the satisfaction of the Commissioner full and accurate records of his prospecting operations, *and mineral mining.*~~  
*(4/ any.)*

Amalgamation  
of prospecting  
licence areas.

~~22. The Commissioner may permit the amalgamation of any number of duly registered adjoining exclusive prospecting licence areas.~~

Disposal of  
minerals  
obtained in  
prospecting.

~~23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall be the property of the Government and, except for the purpose of sampling and assay, shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner :~~

Any person who commits an offence against this subsection shall be liable to a fine of one hundred pounds or imprisonment for six months, or both.

(2) The Commissioner may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorise the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

*Transfered,  
now section  
23 of the Mines  
Act 1981.*

~~27. (1) The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations submitted to the Commissioner at the time of his application or the revised thereof.~~

Obligations of the holder of exclusive prospecting licence.

Provided that the Commissioner may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

(2) Failure to exercise due skill and due diligence *to the satisfaction of the Commissioner* shall be a ground for cancellation of the licence.

(3) Whether due skill or due diligence is being shown shall be a matter within the discretion of the Commissioner, whose decision shall be final.

Obligation of  
the holder  
of  
exclusive  
prospecting  
licence.

~~24. The holder of an exclusive prospecting licence shall during the continuance of the licence adequately carry on to the satisfaction of the Commissioner bona fide prospecting operations on the lands included in the area in respect of which the licence has been granted :~~

Provided that the Commissioner may on the application of the holder and for good cause shown by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

Records of  
prospecting  
operations.

~~25. The holder of an exclusive prospecting licence shall keep to the satisfaction of the Commissioner full and accurate records of his prospecting operations, and all other mining (if any).~~

C.—GENERAL.

23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence except as provided under sub-section (1) of section 19 shall be the property of the Government and, except for the purposes of sampling and assay, shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner :

Disposal of minerals obtained in prospecting.

Any person who commits an offence against this subsection shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The Commissioner may authorize the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

24. - see section 61 of the 1931 Ordinance

C.—GENERAL.

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Disposal of minerals obtained in prospecting.

Any person who commits an offence against this sub-section shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The Commissioner may authorize the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

24. - see section 61 of the 1931 Ordinance

25-30. (1) The holder of a prospecting right or of an exclusive prospecting licence shall, on demand being made by the owner or occupier of land upon or under which prospecting operations are or have been carried on, pay him fair and reasonable compensation for any disturbance of the rights of such owner or occupier, and for any damage done to the surface of the land by such operations, and shall, on demand being made by the owner of any crops, trees, buildings or works damaged by the holder of the right or licence or by any agent or servant of such holder, pay compensation for such damage.

Payment of compensation to owners or occupiers of land.

or to stock

stock

(2) (i) If the holder of a prospecting right or exclusive prospecting licence fails to pay compensation when demanded under sub-section (1) or if an owner or occupier is dissatisfied with the compensation offered, the owner or occupier may take proceedings before the Commissioner, in which case the provisions of Part IV of this Ordinance shall apply:

Provided that when the claimant is a native, the Administrative Officer in charge of the district shall, if the native so desires, assess and determine the amount of the compensation, and that the decision of such Administrative Officer shall in such case be final, subject only to an appeal to the Governor.

(ii) Notice of appeal against the decision of the Administrative Officer shall be given to such officer within fourteen days of the date on which his decision is notified to the party desiring to appeal.

(3) The sum awarded by the Commissioner or Administrative Officer or, when there has been an appeal, by the Governor, shall be paid by the holder of the prospecting right or exclusive prospecting licence to the person entitled thereto, within fourteen days of the date on which the amount of the award is notified to the holder of the right or licence or location or shall be paid and bank funds the disposal of any official or official thereon

(4) If the sum awarded is not paid within the time specified in sub-section (3), such sum may be paid out of any moneys deposited by the holder of the right or licence under section 23 or, if no moneys or insufficient moneys have been deposited, may be sued for by the persons entitled thereto in any court.

(5) The Governor may suspend the prospecting right or exclusive prospecting licence of the person in default until the amount awarded has been paid and until the holder of the right or licence has deposited with the Government such

the right to work a location

further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right or exclusive prospecting licence of the person in default.

Revocation of prospecting right or exclusive prospecting licence.

*to forfeit the*  
 26. In the case of any breach by the holder of a prospecting right or an exclusive prospecting licence or by any attorney of or manager employed by such holder of any of the provisions of this Ordinance or of any regulation made thereunder, it shall be lawful for the Commissioner to call upon the holder of the right or licence to show cause, within a time specified by the Commissioner, why his right or licence should not be revoked, and should he fail to comply with such order within the time specified or should the cause shown not be adequate in the opinion of the Governor, the Governor may summarily revoke the right or licence, and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date of such revocation cease :

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Ordinance or of any regulation committed by him before such revocation.

## PART III.

## MINING.

Mining: when lawful.

~~26~~ 27. Mining shall be lawful under a claim or a mining lease :

~~(1) Mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence duly authorized under section 26(1) of this Ordinance.~~

~~(2) No person himself or by his agent shall <sup>work at</sup> a location unless he is the holder of a prospecting right.~~

~~(3) Mining locations shall be either alluvial locations or lode locations, provided that the Commissioner may grant authority, on such terms as he may think fit, permitting a location-holder to conduct, on the land comprised in his location, mining operations of a kind different from that in respect of which his location is registered, and may vary or revoke any such authority.~~

~~(4) If a location-holder on the land comprised in his location carries on mining operations of a kind different from that in respect of which his location is registered, unless authorized so to do under the preceding sub-section, his location shall be liable to forfeiture.~~

Mining: when lawful.

Rents.

~~26~~ 28. No rent shall be payable for a <sup>location</sup> ~~location~~. For a mining lease there shall be paid, subject to the provisions of section 48 of this Ordinance, a rent of <sup>five</sup> ~~two~~ shillings per annum per acre or part thereof.

*to forfeit the*

further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right or exclusive prospecting licence of the person in default.

Revocation of prospecting right or exclusive prospecting licence.

*No. 27.* In the case of any breach by the holder of a prospecting right or an exclusive prospecting licence or by any attorney of or manager employed by such holder of any of the provisions of this Ordinance or of any regulation made thereunder, it shall be lawful for the Commissioner to call upon the holder of the right or licence to show cause, within a time specified by the Commissioner, why his right or licence should not be revoked, and should he fail to comply with such order within the time specified or should the cause shown not be adequate in the opinion of the Governor, the Governor may summarily revoke the right or licence, and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date of such revocation cease :

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Ordinance or of any regulation committed by him before such revocation.

PART III.

MINING.

Mining: when lawful.

*28.* Mining shall be lawful under a claim or a mining lease :

Provided that pending the grant of the mining lease the Commissioner may grant permission to the applicant to mine on the area applied for on such conditions and subject to such restrictions as the Commissioner may think fit, and provided also that the provisions of the Ordinance and regulations which are applicable to mining leases shall apply to any areas in respect of which application has been made for a lease and on which permission to mine has been granted. Such permission may at any time be withdrawn by the Commissioner.

Rents.

*28 20.* No rent shall be payable for a <sup>lot also</sup> ~~lease~~ For a mining lease there shall be paid, subject to the provisions of section 48 of this Ordinance, a rent of ~~five~~ <sup>two</sup> shillings ~~per annum~~ <sup>per</sup> acre or part thereof.

Mining: when lawful.

*27.* Mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence duly authorized under section 90(1) of this Ordinance.

(2) No person himself or by his agent shall ~~occupy~~ <sup>use</sup> a location unless he is the holder of a prospecting right.

(3) Mining locations shall be either alluvial locations or lode locations, provided that the Commissioner may grant authority, on such terms as he may think fit, permitting a location-holder to conduct, on the land comprised in his location, mining operations of a kind different from that in respect of which his location is registered, and may vary or revoke any such authority.

(4) If a location-holder on the land comprised in his location carries on mining operations of a kind different from that in respect of which his location is registered, unless authorized so to do under the preceding sub-section, his location shall be liable to forfeiture.

~~30. No person may hold more than one alluvial claim for precious metals or stones :~~

One alluvial claim only to be held in the case of precious metals or stones.

Provided that the Commissioner may, on being satisfied by a claim holder that owing to climatic reasons he is unable to work his claim, allow him to hold another such claim which he may work for the period during which he shall suspend work on the first claim. Should he desire to resume work on the first claim, he shall cease work on the second claim and may be granted a certificate of suspension in respect of such claim.

~~31. Any holder of a prospecting right who discovers minerals in apparently payable quantities may, in addition to the claims allowed by this Ordinance, peg five extra claims of the prescribed area, and shall apply to the Commissioner for registration of such claims. If the Commissioner is satisfied that minerals exist in apparently payable quantities and that the discovery lies in a locality in which such minerals were not hitherto known to exist, the Commissioner shall register such claims, which shall be known as "reward claims."~~

"Reward claims."

~~19-32. (1) When any holder of a prospecting right <sup>applies for</sup> a claim <sup>in the prescribed area</sup> on land not excluded from prospecting in accordance with the provisions of the Ordinance and regulations, he shall within thirty days thereafter apply in manner prescribed for registration, in the office of the Commissioner through an officer who may be appointed for the purpose in the district in which the claim is situated <sup>and shall state the nature of the location sought</sup>~~

Registration of claims locations

~~(2) If the application is in accordance with the provisions of the Ordinance and the regulations, the Commissioner shall register the claim.~~

~~33-34. A mining location shall be valid for one year from the date of pegging, and may be renewed <sup>for a period of one year</sup> for further terms of one year each, on payment of the prescribed rent <sup>up to a maximum of five years in all.</sup>~~

Duration of claim. LOCATION

(3) Any person failing to apply for the registration of a location within the period aforesaid shall forfeit all rights in respect thereof and shall, if he works or mines on such a location, incur the penalty prescribed for unauthorized mining.

~~35-36. Where any interest in a claim registered as aforesaid is transferred to, vests in (absolutely or as security only), or devolves upon any person, such person shall within thirty days thereafter register such transfer or vesting in the prescribed manner in the office aforesaid.~~

Registration of transfer.

~~30.~~ ~~No person may hold more than one alluvial claim for precious metals or stones:~~

One alluvial claim only to be held in the case of precious metals or stones.

Provided that the Commissioner may, on being satisfied by a claim holder that owing to climatic reasons he is unable to work his claim, allow him to hold another such claim which he may work for the period during which he shall suspend work on the first claim. Should he desire to resume work on the first claim, he shall cease work on the second claim and may be granted a certificate of suspension in respect of such claim.

~~31.~~ Any holder of a prospecting right who discovers minerals in apparently payable quantities may, in addition to the claims allowed by this Ordinance, peg five extra claims of the prescribed area, and shall apply to the Commissioner for registration of such claims. If the Commissioner is satisfied that minerals exist in apparently payable quantities and that the discovery lies in a locality in which such minerals were not hitherto known to exist, the Commissioner shall register such claims, which shall be known as "reward claims."

"Reward claims."

~~29-32.~~ (1) When any holder of a prospecting right <sup>works off</sup> a claim on land not excluded from prospecting <sup>has done</sup> in accordance with the provisions of the Ordinance and regulations, he shall within thirty days thereafter apply in manner prescribed for registration, <sup>in the office of the Commissioner through an officer who may be appointed for the purpose in the district in which the claim is situated</sup> and shall <sup>make</sup> the nature of the location <sup>suggested</sup>.

Registration of claims to laborer

(2) If the application is in accordance with the provisions of the Ordinance and the regulations, the Commissioner shall register the claim.

~~33-39.~~ <sup>A mining location shall be valid</sup> the claim shall be granted for one year from the date of pegging, and may be renewed <sup>for successive periods of one year</sup> for further terms of one year each, <sup>up to a maximum of five years in all.</sup>

Duration of claim. LOCATION

~~40-44.~~ Where any interest in a claim registered as aforesaid is transferred to, vests in (absolutely or as security only), or devolves upon any person, such person shall within thirty days thereafter register such transfer or vesting in the prescribed manner in the office aforesaid.

Registration of transfer.

(3) Any person failing to apply for the registration of a location within the period aforesaid shall forfeit all rights in respect thereof and shall, if he works or mines on such a location, incur the penalty prescribed for unauthorized mining.

Notice to private occupiers who may demand security. Right of location holder to take timber.

32. A location holder may, on the lands included within the area of his location, cut, take and use any tree when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall be liable for any fees or royalties which may be payable under any law relating to forests and shall, before cutting, taking and using any such tree pay to the owner or occupier of the land on which such tree is standing a reasonable sum therefor. If the owner or occupier is dissatisfied with the compensation offered the dispute shall be dealt with under the provisions of section 25 of this Ordinance.

No. I

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Mining

1981

Failure to register.

25. Any person failing to apply for the registration of a claim or a share in a claim within the period specified shall forfeit all rights in respect of the ~~claim~~ and ~~share~~ in the ~~work~~ of ~~mines~~ on such a claim, incur the penalty prescribed for unauthorized mining.

Rights under a claim  
Location

31.30. The holder of a ~~claim~~ <sup>mining location</sup> shall have the right to enter upon the land the subject of the ~~claim~~, and the exclusive right to prospect or mine thereon and to remove therefrom and dispose of the minerals in respect of which the ~~claim~~ <sup>mining location</sup> shall have been registered.

Amalgamation of claims

27. The Commissioner may permit the amalgamation of any number of adjoining claims of the same class.

Transfer of claims and interests therein.

33.28. Subject to the approval of the Commissioner, after a claim has been registered as aforesaid, the holder may, in the manner prescribed by the regulations by instrument in writing divide his interest in the ~~claim~~ <sup>mining location</sup> into such shares as he shall think proper, and may allot shares or transfer the ~~claim~~ <sup>mining location</sup> or create or transfer any interest therein:

Provided that the holder who has transferred an alluvial claim for precious metals or precious stones may not hold another such claim until the first claim has been abandoned, subject to the provisions of sections 30 and 31.

Location holder when liable to forfeiture by the Commissioner.

34.30. A ~~claim~~ <sup>location or land held</sup> shall be liable to forfeiture by the Commissioner by ~~written~~ <sup>written</sup> notice to the holder or by notice published in the Gazette in the following circumstances:—

- (a) if the person pegging has failed to apply for registration in prescribed manner within the time fixed by section 32;
- (b) if the holder has not produced when demanded by the Commissioner, within such period as he may allow, satisfactory evidence of compliance with the working conditions prescribed;
- (c) if the rent payable is not paid to the Commissioner within thirty days from the date when it became due, or within such additional time as the Commissioner may allow;
- (d) if the holder fails to render any prescribed return when due, or within such additional time as the Commissioner may allow;

Provided that the happening of any one or more of such circumstances shall not render it obligatory for the Commissioner to declare the forfeiture of any location or any part thereof.

(2) If the Commissioner is satisfied that in the circumstances a location or any part thereof should be forfeited he shall give notice in writing to the holder specifying the location or part thereof to be forfeited, the cause of forfeiture, and the date from which the location or part thereof shall be deemed to be forfeited, and shall not less than thirty days after the giving of such notice to the holder by notice in the Gazette declare such location or part thereof to be forfeited as from a date to be specified in such notice.

(3) For the purposes of this section, failure to apply for registration or renewal of a location or for the renewal of an exclusive prospecting licence within the prescribed time shall be deemed to be an abandonment of such location or of such exclusive prospecting licence.

*for section 36 see section 37 of the old Ordinance which is transferred here*

*mining location or of a coal location in respect to the whole or any part of his location*

Re-pegging of ground, forfeiture, etc. 37. Ground which has been abandoned or forfeited shall be open to re-pegging after a period of thirty days from the date of abandonment or forfeiture, provided that no person shall be entitled either directly or indirectly, through an agent or otherwise to re-peg any ground which has been abandoned by him or forfeited while held by him until after a period of ninety days from the date of such abandonment or forfeiture.

(4) if the holder has not complied with any of the prescribed conditions; or

(5) if registration thereof has been obtained by any false or fraudulent representation or concealment.

~~Nothing in this section contained shall impose any obligation on the Commissioner to declare the forfeiture of a claim.~~

38 40. (1) Any person who shall abandon his ~~claim~~ <sup>location or any part thereof</sup> shall forthwith notify the Commissioner of such abandonment. <sup>Obligation on abandonment.</sup>

(2) Any person who shall abandon his ~~claim~~ <sup>location</sup> and any person whose ~~claim~~ <sup>location</sup> shall have been forfeited shall forthwith fill up, fence, or secure to the satisfaction of the Commissioner or other prescribed officer all shafts, pits, holes and excavations, in such a manner as to prevent persons or stock inadvertently entering them and shall remove the ~~necessary boundary posts and all other~~ <sup>boundary posts</sup> boundary posts thereon, and in default of so doing, shall be liable to a fine of fifty pounds or to imprisonment for ~~three~~ <sup>three</sup> months, and in addition shall be liable to pay such sum as the Commissioner may certify the cost of doing so will be.

39 41. Any person who shall by false representation or fraudulent concealment of facts obtain registration of any ~~claim~~ <sup>location</sup> under this Ordinance shall, in addition to the forfeiture of the ~~claim~~ <sup>location</sup>, be liable to a penalty not exceeding fifty pounds or to imprisonment for three months. <sup>Penalty for false representation.</sup>

39 42. The provisions of sections ~~16~~ <sup>15</sup> and 26 shall apply ~~mutatis mutandis~~ <sup>mutatis mutandis</sup> to a ~~claim~~ <sup>location</sup>. <sup>Application of sections 15 and 26 to claims.</sup>

41 43. The Governor may grant a lease to the holder of a ~~prospecting right or of an exclusive prospecting licence~~ <sup>prospecting right or of an exclusive prospecting licence</sup>, provided that in the latter case the lease applied for shall be wholly within the boundaries of that licence; or to the holder of a ~~claim~~ <sup>claim</sup> in respect to the whole or any part of the area of his ~~claim~~ <sup>claim</sup>. <sup>Grant of leases.</sup>

41 44. Applications for leases shall be made in the prescribed form and manner, and shall be subject to the prescribed conditions as to marking out and survey of the land applied for, taking possession thereof and otherwise, and shall be accompanied by payment of one year's rent in advance at the rate prescribed. <sup>Applications for leases.</sup>

Provided that the happening of any one or more of such circumstances shall not render it obligatory for the Commissioner to declare the forfeiture of any location or any part thereof.

(2) If the Commissioner is satisfied that in the circumstances a location or any part thereof should be forfeited he shall give notice in writing to the holder specifying the location or part thereof to be forfeited, the cause of forfeiture, and the date from which the location or part thereof shall be deemed to be forfeited, and shall not less than thirty days after the giving of such notice to the holder by notice in the Gazette declare such location or part thereof to be forfeited as from a date to be specified in such notice.

(3) For the purposes of this section, failure to apply for registration or renewal of a location or for the renewal of an exclusive prospecting licence within the prescribed time shall be deemed to be an abandonment of such location or of such exclusive prospecting licence.

*for section 36 see section 37 of the old Ordinance which is transferred here*

*mining location or of a coal location in respect to the whole or any part of his location*

Re-pegging of ground, forfeiture, etc.

37. Ground which has been abandoned or forfeited shall be open to re-pegging after a period of thirty days from the date of abandonment or forfeiture, provided that no person shall be entitled either directly or indirectly, through an agent or otherwise to re-peg any ground which has been abandoned by him or forfeited while held by him until after a period of ninety days from the date of such abandonment or forfeiture.

40 if the holder has not complied with any of the prescribed conditions; or

41 if registration thereof has been obtained by any false or fraudulent representation or concealment.

Nothing in this section contained shall impose any obligation on the Commissioner to declare the forfeiture of a claim.

38 40. (1) Any person who shall abandon his <sup>location or any part thereof</sup> claim shall forthwith notify the Commissioner of such abandonment. <sup>Obligation on abandonment.</sup>

(2) Any person who shall abandon his <sup>location</sup> claim and any person whose <sup>location</sup> claim shall have been forfeited shall forthwith fill up, fence, or secure to the satisfaction of the Commissioner or other prescribed officer all shafts, pits, holes and excavations, in such a manner as to prevent persons or stock inadvertently entering them and shall remove the <sup>boundary posts and all other</sup> boundary posts thereon, and in default of so doing, shall be liable to a fine of fifty pounds or to imprisonment for three months, and in addition shall be liable to pay such sum as the Commissioner may certify the cost of doing so will be. <sup>these not included</sup>

41. Any person who shall by false representation or fraudulent concealment of facts obtain registration of any <sup>claim</sup> under this Ordinance shall, in addition to the forfeiture of the <sup>claim</sup> be liable to a penalty not exceeding fifty pounds or to imprisonment for three months. <sup>Penalty for false representation.</sup>

39 42. The provisions of sections 18 and 26 shall apply mutatis mutandis to a <sup>claim</sup>. <sup>Application of sections 18 and 26 to claims.</sup>

44 43. The Governor may grant a lease to the holder of a <sup>prospecting right or of an exclusive prospecting licence</sup> provided that in the latter case the lease applied for shall be wholly within the boundaries of that licence; or to the holder of a claim in respect to the whole or any part of the area of his claim. <sup>Grant of leases.</sup>

41 44. Applications for leases shall be made in the prescribed form and manner, and shall be subject to the prescribed conditions as to marking out and survey of the land applied for, taking possession thereof and otherwise, and shall be accompanied by payment of one year's rent in advance at the rate prescribed. <sup>Applications for leases.</sup>

Applicant  
to show  
sufficient  
capital.

42-45. The Governor may require an applicant for a lease to show to his satisfaction that he possesses or commands or will command ~~within five months~~ sufficient working capital to ensure the development of and working of mining operations on the area applied for, and may require any reports on the matter made by prospectors or engineers to be submitted for his information.

In the event of the applicant failing to satisfy the Governor as aforesaid, the Governor may refuse the application, but the applicant may make a new application at any time.

Giving false  
information

43-48. Any applicant for a lease wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be required to be given under this Ordinance shall be liable to a fine <sup>of fifty pounds</sup> or to imprisonment for <sup>three months</sup> ~~three months~~.

Duration  
of lease.

47. A lease may be granted for such term, not being less than five or more than twenty-one years, as the Governor may think proper:

~~Provided that when permission to mine on the area is granted under section 25 pending the grant of the lease, such term shall commence from the date of the grant of such permission.~~

Renewal  
of lease.

45-48. If at the expiration of the term originally granted or of any renewal thereof the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Ordinance, and the lessee shall have given to the Commissioner six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new leases:

Provided that in the case of any renewal the rent shall not be increased ~~by more than fifty per centum above that reserved by the original lease.~~

Surrender  
of lease.

49. A lease may be surrendered at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender if the sanction of the Governor be endorsed in writing thereon, and on payment of the prescribed fee, but not otherwise, provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect.

Applicant  
to show  
sufficient  
capital.

42.45. The Governor may require an applicant for a lease to show to his satisfaction that he possesses or commands or will command ~~within twelve months~~ sufficient working capital to ensure the development of and working of mining operations on the area applied for, and may require any reports on the matter made by prospectors or engineers to be submitted for his information.

In the event of the applicant failing to satisfy the Governor as aforesaid, the Governor may refuse the application, but the applicant may make a new application at any time.

Giving false  
information

43.46. Any applicant for a lease wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be required to be given under this Ordinance shall be liable to a fine ~~of not more than~~ <sup>of fifty pounds</sup> or to imprisonment ~~for three months~~.

Duration  
of lease.

44.47. A lease may be granted for such term, not being less than five or more than twenty-one years, as the Governor may think proper:

~~Provided that when permission to mine on the area granted under section 26 pending the grant of the lease, such term shall commence from the date of the grant of such permission.~~

Renewal  
of lease.

45.48. If at the expiration of the term originally granted or of any renewal thereof the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Ordinance, and the lessee shall have given to the Commissioner six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new leases:

Provided that in the case of any renewal the rent shall not be increased by ~~more than fifty per centum~~ above that reserved by the original lease.

Surrender  
of lease.

49. A lease may be surrendered at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender if the sanction of the Governor be endorsed in writing thereon, and on payment of the prescribed fee, but not otherwise, provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect.

~~50.~~ The Commissioner may permit the amalgamation of any number of leases of the same kind. Amalgamation of leases.

~~46~~ 51. A lessee shall not transfer or assign his lease or any of the rights conferred thereby without the consent in writing of the Governor signified by endorsement thereon. No transfer of lease without consent.

~~47~~ 52. (1) The Governor may grant a special lease of any land if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land, or for any other cause, it is necessary that such a lease be granted. Special lease.

(2) The Governor may fix the form of, and area to be comprised in, any such lease, the rent and royalty to be paid, and the labour and other conditions, reservations and exceptions to be contained in the same, but in all other respects such special lease and the application for the same shall be subject to the provisions of this Ordinance and of the regulations made thereunder.

~~48~~ 53. A lease shall confer upon the lessee the right to enter upon the lands the subject of the lease, and, subject to the regulations, the exclusive right to mine on such lands and the right to remove and dispose of the minerals specified in the lease, and to do all such things as are reasonably necessary for the conduct of mining operations. Rights under a lease.

~~49~~ 54. (1) The Commissioner may grant authority upon such terms as he may think fit permitting the lessee to mine on the land comprised in his lease for any mineral other than that in respect of which the lease was granted, and may vary or revoke any such authority. Mining for mineral other than that for which lease granted.

(2) If the lessee mines for any mineral other than that in respect of which his lease or any authority as aforesaid has been granted, his lease shall be liable to forfeiture.

~~50~~ 55. In so far as it may be necessary to the lessee for or in connection with his mining operations and subject to the provisions of this Ordinance and the regulations, the lessee shall have on the lands included in his lease the following rights— Surface rights of lessee.

- (a) to make all necessary excavations;
- (b) to erect, construct, and maintain houses and buildings for his use and for the use of his agents and servants;
- (c) to erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;

- (d) to stack or dump any of the products of mining;
- (e) subject to the provisions of any law relating to water, <sup>to lay</sup> water-pipes and to make water-courses and ~~pools~~ dams and reservoirs, and to divert from a natural water-course any water on or flowing entirely through the land, provided that—
  - (i) any water diverted not containing any noxious or poisonous matter shall be returned to its natural channel before leaving such land;
  - (ii) any existing rights to use any source of natural water supply shall not be disturbed;
- (f) to construct and maintain all such tramways, roads, communications and conveniences as may be necessary;

Provided that whenever a disagreement shall arise between the owner in the case of private land and the lessee in connection with surface rights, the matter shall be determined by the Commissioner.

Mining near public buildings, railways, etc., prohibited except with the consent of the Governor.

~~57-58.~~ A lease shall not authorise the lessee to occupy or mine on or under land ~~occupied by a native village or by a market or burial ground, or on or under land~~ within one hundred yards of any Government or public buildings or works, or any market, burial ground, public road, ~~or~~ tramways, or of any railway, without the consent in writing of the Governor first obtained, and subject to the conditions, if any, prescribed by the Governor.

Notice to private occupiers who may demand security.

~~52-54.~~ The provisions of sections ~~16~~ and ~~26~~ shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Right of lessee and claim-holder to take timber.

~~58.~~ A lessee or a claim holder may, on the lands included within the area of his lease or claim, cut, take and use any ~~tree~~ <sup>trees</sup> when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall be liable for any fees or royalties which may be payable under any law relating to forests.

Treatment of tailings, etc., after determination of lease.

~~56-59.~~ (1) Any lessee whose ~~tenancy~~ <sup>tenancy</sup> is by any means determined may, within thirty days of such determination, apply to the Commissioner for leave to enter the land comprised in the lease and treat or remove any tailings, <sup>or</sup> ~~ore~~ <sup>or</sup>

53. The provisions of section 32 shall apply *mutatis mutandis* to a lessee. Right of lessee to take timber.

*Sec. 32 of the new Ord.*

*Sec. 32*

stone left thereon by him. The Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

(2) If such leave is not applied for within thirty days or such treatment or removal is not completed within the time fixed, any tailings, or <sup>of stone</sup> stone remaining on the land shall become the absolute property of the Government.

~~588~~ (1) The Governor may, by notice to the lessee, determine a lease in the following cases:—

Grounds for forfeiture of lease.

- (a) if the lessee shall commit a breach of any provision of this Ordinance or of any regulations, or of any conditions of the lease, and does not repair such breach, within such period, being not less than one month from the date of the receipt of a notice in writing from the Commissioner so to do, as the Governor may decide; or
- (b) if the lessee shall wholly cease work in, on, or under the lease during a continuous period of six months, without the written consent of the Commissioner.
- (2) Such determination shall not affect any liability incurred by the lessee.
- (3) Publication in the Gazette <sup>shall</sup> be sufficient notice to the lessee.

~~587~~ Any person who discovers any minerals on any land subject to any licence. <sup>of economic value</sup> ~~under this Ordinance~~ shall forthwith report the discovery within a period of thirty days to the Commissioner <sup>in writing</sup> ~~where it is proved to be impracticable to do so in the time stated and then in the earliest practicable time.~~

Discovery to be reported.

*(Signature)*  
to section 24

~~600~~ The subterranean limits of any <sup>lease</sup> ~~claim~~ or mining lease shall be vertical planes passing through the sides by which the ~~claim~~ or lease is bounded.

Subterranean limits.

~~601~~ The rent payable under a lease shall be payable yearly in advance, and, if not paid within three months of becoming due, and after the Commissioner shall have served notice on the person in default demanding payment, an amount of ~~twenty~~ <sup>five</sup> per centum of the amount due shall be added to the rent and shall be due and payable as if it were part of the rent.

<sup>Commissioner's</sup> Penalty on non-payment of rent.

*Copy will write notice to the last known address of the lessee*

*other than that for which his licence or location was granted*

58. The provisions of section 36 shall apply *mutatis mutandis* to a lessee. <sup>Owner may remove plant, etc. or surrender.</sup>

59. The provisions of section 24 shall apply *mutatis mutandis* to a lease granted under this Ordinance. <sup>Discovery to be reported.</sup>

Provided that the Governor may grant a lease of a subterranean area larger than the limits of the surface of land comprised in such lease. In such case so much of the surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from prospecting or mining and the lessee of such subterranean area shall have the right to enter upon any part of the surface lying above the area of his lease and construct thereon such works, ways and buildings as may be necessary for the proper working of his lease on payment of such rent and such compensation for the use of such surface as the Governor may determine.

stone left thereon by him. The Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

(2) If such leave is not applied for within thirty days or such treatment or removal is not completed within the time fixed, any tailings, ore or stone remaining on the land shall become the absolute property of the Government.

588. (1) The Governor may, by notice to the lessee, determine a lease in the following cases:—

Grounds for forfeiture of lease.

- (a) if the lessee shall commit a breach of any provision of this Ordinance or of any regulations, or of any conditions of the lease, and does not repair such breach, within such period, being not less than one month from the date of the receipt of a notice in writing from the Commissioner so to do, as the Governor may decide; or
- (b) if the lessee shall wholly cease work in, on, or under the lease during a continuous period of six months, without the written consent of the Commissioner.
- (2) Such determination shall not affect any liability already incurred by the lessee.
- (3) Publication in the Gazette shall be sufficient notice to the lessee.

589. Any person who discovers any minerals on any land subject to any licence, <sup>of economic value</sup> shall forthwith report the discovery <sup>to the Commissioner</sup> within a period of thirty days to the Commissioner, <sup>except in cases where it is proved to be impracticable to do so in the time stated and then in the earliest practicable time.</sup>

Discovery to be reported.

Transferred to Section 24

600. The subterranean limits of any <sup>lease</sup> or mining lease shall be vertical planes passing through the sides by which the <sup>lease</sup> or lease is bounded.

Subterranean limits.

618. The rent payable under a lease shall be payable yearly in advance, and, if not paid within three months of becoming due, and after the Commissioner shall have served notice on the person in default demanding payment, an amount of ~~twenty~~ five per centum of the amount due shall be added to the rent and shall be due and payable as if it were part of the rent.

Commissioner's Penalty on non-payment of rent.

together with written notice to the last known address of the lessee

other than that for which this licence or location was granted

58. The provisions of section 36 shall apply *mutatis mutandis* to a lessee. Owner may remove plant, etc., on surrender. Discovery to be reported.

59. The provisions of section 24 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Provided that the Governor may grant a lease of a subterranean area larger than the limits of the surface of land comprised in such lease. In such case so much of the surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from prospecting or mining and the lessee of such subterranean area shall have the right to enter upon any part of the surface lying above the area of his lease and construct thereon such works, ways and buildings as may be necessary for the proper working of his lease on payment of such rent and such compensation for the use of such surface as the Governor may determine.

Registration  
of leases, etc.

64. No sale, lease, mortgage, charge, lien or other dealing relating to any exclusive prospecting licence, location or mining lease shall be valid, and no evidence thereof shall be receivable in any civil proceedings before any court, unless it is registered in the prescribed manner.

Rent, how  
recoverable.

62a. The rent reserved by any lease, ~~claim or exclusive prospecting licence~~ may be levied or recovered under the authority of or in the name of the Commissioner, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned.

Registration  
of leases, etc.

63 65. Every lease under this Ordinance, and every transfer or sub-lease of the land comprised in any such lease, shall be registered in the office of the Commissioner in the manner prescribed, and no such lease, transfer or sub-lease shall be valid unless so registered.

Extension  
after breach.

59 68. Whenever a lease becomes liable to forfeiture, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind the lessee and all transferees, mortgagees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

Owner may  
remove plant,  
etc., on  
surrender.

36 47. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease or location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed, they may be sold by auction by order of the Commissioner at the risk of the former lessee or the holder of a location. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former lessee or holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance."

Transferred to  
section 36.

Owner may  
remove plant.

67. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease may within three months from the date of forfeiture or surrender or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not, under a penalty of not more than one hundred and fifty pounds or less than seven pounds ten shillings for each such offence, be permitted to remove or to interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed they may be sold by auction by the order of the Commissioner at the risk of the former lessee. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former lessee.

#### PART IV.

#### DISPUTES.

65 68. The  
Commissioner  
may decide  
disputes.

65 68. The Commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters herein-after mentioned, and shall have power to make any order

Subject to the provisions of any law for the  
time being in force in the Colony

Registration  
of leases, etc.

64. No sale, lease, mortgage, charge, lien or other dealing relating to any exclusive prospecting licence, location or mining lease shall be valid, and no evidence thereof shall be receivable in any civil proceedings before any court, unless it is registered in the prescribed manner.

Owner may  
remove plant,  
etc., on  
surrender.

*Transferred to  
section 30.*

36 67. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease or location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed, they may be sold by auction by order of the Commissioner at the risk of the former lessee or the holder of a location. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former lessee or holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance.

*Subject to the provisions of any law for the  
time being in force in the Colony.*

Rent, how  
recoverable.

62. The rent reserved by any lease, claim or exclusive prospecting licence may be levied or recovered under the authority of or in the name of the Commissioner, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned.

Registration  
of leases, etc.

63 65. Every lease under this Ordinance, and every transfer or sub-lease of the land comprised in any such lease, shall be registered in the office of the Commissioner in the manner prescribed, and no such lease, transfer or sub-lease shall be valid unless so registered.

Extension  
after breach.

59 60. Whenever a lease becomes liable to forfeiture, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind the lessee and all transferees, mortgagees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

Owner may  
remove plant.

67. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease may within three months from the date of forfeiture or surrender or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not, under a penalty of not more than one hundred and fifty pounds or less than seven pounds ten shillings for each such offence, be permitted to remove or to interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed they may be sold by auction by the order of the Commissioner at the risk of the former lessee. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former lessee.

#### PART IV.

#### DISPUTES.

*Under  
Commissioner  
may decide  
disputes.*

68. The Commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters herein-after mentioned, and shall have power to make any order

which may be necessary for the purpose of giving effect to his decision and to order the payment by any party to the dispute of such compensation to any other party as may be reasonable. Such matters are as follows:—

- (a) disputed boundaries;
- (b) any wrongful act committed, or any act wrongfully omitted, or alleged to have been committed or omitted, in the course of prospecting mining operations, by any person against any other person;
- (c) acts, omissions or matters in the course of, connected with, or auxiliary to prospecting or mining operations;
- (d) the claim of any person to be entitled to erect, cut, construct, or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have any priority of water taken, diverted, used, or delivered, as against any other person claiming the same;
- (e) assessment and payment of compensation where provided for under this Ordinance.

~~6/30.~~ The mode of proceeding in a complaint before the ~~Commissioner~~ Procedure. shall be as follows:—

- (1) The person complaining shall lodge a memorandum in duplicate at the office of the ~~Commissioner~~.
- (2) The memorandum shall be in the prescribed form or in a form to the like effect, and shall specify shortly the subject-matter of the complaint and the relief claimed.
- (3) Upon receipt of the memorandum the ~~Commissioner~~ <sup>Secretary</sup> shall give notice in the prescribed form, by post or otherwise, to the party sued of the nature of the complaint, and the time and place at which the same will be heard and determined, ~~and may, if he thinks fit, require him to attend the Court~~ <sup>in writing</sup>.
- (4) At the time and place appointed the parties shall attend and state their cases before the ~~Commissioner~~ and may call evidence on oath (which oath the ~~Commissioner~~ <sup>Secretary</sup> is hereby authorised to administer) in support thereof, and the ~~Commissioner~~ <sup>Secretary</sup>, having heard such statement and evidence, shall give his decision.



- (5) The <sup>Harden</sup> Commissioner may adjourn such hearing to any other time or place, and may, either at the original hearing or any adjournment, proceed in the absence of either party.
- (6) The <sup>Harden</sup> Commissioner may at any time during the hearing seize or cause to be seized any minerals, and may detain them pending his decision.
- (7) The law for the time being regulating proceedings before and the powers of a subordinate court of the first class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, additions or alterations which may be prescribed, apply to proceedings before the <sup>Harden</sup> Commissioner and to the enforcement of his decisions in like manner as if such decisions were the decisions of such court.
- (8) Fees shall be charged as may be prescribed.

Commissioner  
to keep record  
and take notes.

67.78. (1) The <sup>Harden</sup> Commissioner shall keep a record of all cases heard and complaints decided by him and shall take notes in writing of all evidence given before him.

(2) Any person interested in any dispute, decision, or order shall be entitled to obtain a copy of such record and notes upon payment of the prescribed fee.

Enforcement of  
Commissioner's  
decrees.

68.78. (1) The <sup>Harden</sup> Commissioner may send a copy, certified under his hand and seal, of any decree or order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the decree is situated, and such civil court shall enforce the decree of the <sup>Harden</sup> Commissioner in the same manner in which it would enforce its own decree or order.

(2) The same fees only shall be payable in the civil court upon the enforcement of such decree or order as would be payable upon the enforcement of a like decree or order made by such court.

Appeal to  
Supreme Court  
from decisions  
of the Com-  
missioner.  
Harden

69.78. (1) Any person aggrieved by any decree, order, or decision made or given under the powers vested in the <sup>Harden</sup> Commissioner, may appeal to the <sup>Harden</sup> Supreme Court.

(2) No appeal to the <sup>Harden</sup> Supreme Court shall be admitted after the expiration of thirty days from the date of the decree, order or decision appealed against.

- (5) The <sup>Board</sup> Commissioner may adjourn such hearing to any other time or place, and may, either at the original hearing or any adjournment, proceed in the absence of either party.
- (6) The <sup>Board</sup> Commissioner may at any time during the hearing seize or cause to be seized any minerals, and may detain them pending his decision.
- (7) The law for the time being regulating proceedings before and the powers of a subordinate court of the first class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, additions or alterations which may be prescribed, apply to proceedings before the <sup>Board</sup> Commissioner and to the enforcement of his decisions in like manner as if such decisions were the decisions of such court.
- (8) Fees shall be charged as may be prescribed.

Commissioner to keep record and take notes.

<sup>67.70</sup> (1) The <sup>Board</sup> Commissioner shall keep a record of all cases heard and complaints decided by him and shall take notes in writing of all evidence given before him.

(2) Any person interested in any dispute, decision, or order shall be entitled to obtain a copy of such record and notes upon payment of the prescribed fee.

Enforcement of Decrees.

<sup>67.71</sup> (1) The <sup>Board</sup> Commissioner may send a copy, certified under his hand and seal, of any decree or order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the decree is situated, and such civil court shall enforce the decree of the <sup>Board</sup> Commissioner in the same manner in which it would enforce its own decree or order.

(2) The same fees only shall be payable in the civil court upon the enforcement of such decree or order as would be payable upon the enforcement of a like decree or order made by such court.

Appeal to Supreme Court from decisions of the Commissioner.

<sup>67.72</sup> (1) Any person aggrieved by any decree, order, or decision made or given under the powers vested in the <sup>Board</sup> Commissioner, may appeal to the <sup>Supreme Court</sup> ~~Supreme Court~~.

(2) No appeal to the <sup>Supreme Court</sup> ~~Supreme Court~~ shall be admitted after the expiration of thirty days from the date of the decree, order or decision appealed against.



~~71~~ 72. Nothing in this Part contained shall be deemed to prevent any person from instituting in any of the courts of the Colony any proceedings he may think fit to institute, as provided by law. Jurisdiction of ordinary courts not excluded

## PART V.

## POSSESSION AND PURCHASE OF CERTAIN MINERALS.

~~72~~ 73. The minerals referred to in this Part shall be tin ore and mica in the unmanufactured state, and shall include any other mineral to which the Governor in Council may, by notice, apply this Part. Minerals to which this Part applies.

~~73~~ 74. No person shall possess any such minerals unless he is the holder of a mining lease, ~~lease~~ or prospecting licence or of a licence granted under section 75, or the duly authorised employee of such lessee or holder. Possession of minerals.

~~74~~ 75. No person shall buy any mineral unless he is the holder of a licence granted under the next succeeding section. Purchase of minerals.

~~75~~ 76. (1) The Commissioner may issue a licence in the prescribed form and on payment of the prescribed fee authorising the person named therein to buy minerals. Licence to purchase minerals.

(2) Every such licence shall expire on the thirty-first day of December in the year in which the licence is granted.

(3) No such licence shall be transferred without the consent of the Commissioner.

~~76~~ 77. The holder of a licence under the last preceding section shall not buy any such mineral except from the holder of a lease, a ~~lease~~ prospecting right or exclusive prospecting licence, or a licence under this Part. Restriction on purchase.

~~77~~ 78. Every holder of a licence to purchase minerals shall be liable for the due payment to the Government of all royalties due on any minerals bought by him, and, if so required by the Commissioner, shall give security for due payment of all such royalties. Payment of royalties by licensee.

~~78~~ 79. The holder of a licence to purchase minerals shall—  
(a) keep books showing—  
(i) all purchases made by him and the nature and weight of such minerals purchased; Books to be kept by licensee.

74. The minerals referred to in this Part shall be any mineral in the unmanufactured state to which the Governor in Council may, by notice, apply this Part. Minerals to which this Part applies.

if authorized under sub-section (3) of Section 76, or exclusive prospecting licence or a licence under this Part

~~7148.~~ Nothing in this Part contained shall be deemed to prevent any person from instituting in any of the courts of the Colony any proceedings he may think fit to institute, as provided by law. Jurisdiction of ordinary courts not excluded

PART V.

POSSESSION AND PURCHASE OF CERTAIN MINERALS.

~~7274.~~ The minerals referred to in this Part shall be tin ore and mica in the unmanufactured state, and shall include any other mineral to which the Governor in Council may, by notice, apply this Part. Minerals to which this Part applies.

~~73~~ 75. No person shall possess any such minerals unless he is the holder of a mining lease, ~~lease~~ prospecting licence or right, or of a licence granted under section 75, or the duly authorised employee of such lessee or holder. Possession of minerals.

~~74~~ 76. No person shall buy any mineral unless he is the holder of a licence granted under the next succeeding section. Purchase of minerals.

~~75~~ 77. (1) The Commissioner may issue a licence in the prescribed form and on payment of the prescribed fee authorising the person named therein to buy ~~the~~ minerals. Licence to purchase minerals.

(2) Every such licence shall expire on the thirty-first day of December in the year in which the licence is granted.

(3) No such licence shall be transferred without the consent of the Commissioner.

~~76~~ 78. The holder of a licence under the last preceding section shall ~~not buy~~ any such mineral except from the holder of a lease, a ~~claim~~ prospecting right or exclusive prospecting licence, or a licence under this Part. Restriction on purchase.

~~77~~ 79. Every holder of a licence to purchase minerals shall be liable for the due payment to the Government of all royalties due on any minerals bought by him, and, if so required by the Commissioner, shall give security for due payment of all such royalties. Payment of royalties by licensee.

~~78~~ 80. The holder of a licence to purchase minerals shall—  
(a) keep books showing—  
(i) all purchases made by him and the nature and weight of such minerals purchased; Books to be kept by licensee.

74. The minerals referred to in this Part shall be any mineral in the unmanufactured state to which the Governor in Council may, by notice, apply this Part. Minerals to which this Part applies.

*if authorized under sub section (3) of section 74, or exclusive prospecting licence or a licence under this Part*

- (ii) the date of each purchase; and
- (iii) the name of the vendor and his title or authority to be in possession of such minerals; and
- (b) produce such books for the inspection of the Commissioner or any officer authorised by him whenever required to do so.

## Penalties.

79. ~~81.~~ The holder of a licence who shall commit any breach of the provisions of either of the two last preceding sections or of the conditions of his licence shall be liable to forfeiture of his licence in addition to the penalties prescribed by section 100.

## PART VI.

## INSPECTION AND ACCIDENTS.

## Powers of officers.

80. The Commissioner ~~as an officer~~ <sup>may</sup> duly authorised by him in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or which is the subject of any right, licence, ~~lease~~ <sup>right</sup>, or lease;
- (ii) examine into and make inquiry respecting the condition and ventilation ~~thereof~~ <sup>of the mine</sup>, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works, and ways;
- (iv) ~~examine and take extracts from all books, accounts, vouchers and documents relating thereto, or to any minerals obtained therefrom.~~
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of the Ordinance into effect.

## Obligation to remedy any dangerous practice.

81. (1) If in any respect such officer finds any mine or any matter, thing or practice in or connected with mining or prospecting operations to be dangerous or defective so as, in his opinion, to threaten or tend to the bodily injury of any person, he shall give notice in writing thereof to the lessee or

*Mining Engineer, an inspector or assistant inspector or any other*

*of any mine and any building connected with prospecting or mining activities*

*(iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined.*

*or stock*

- (ii) the date of each purchase; and  
 (iii) the name of the vendor and his title or authority to be in possession of such minerals; and  
 (b) produce such books for the inspection of the Commissioner or any officer authorised by him whenever required to do so.

## Penalties.

*79* 81. The holder of a licence who shall commit any breach of the provisions of either of the two last preceding sections or of the conditions of his licence shall be liable to forfeiture of his licence in addition to the penalties prescribed by section 100.

## PART VI.

## INSPECTION AND ACCIDENTS.

## Powers of officers.

*82* 82. The Commissioner ~~or an officer~~ <sup>or an officer</sup> duly authorised by him in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or which is the subject of any right, licence, ~~lease~~, or lease;
- (ii) examine into and make inquiry respecting the condition and ventilation ~~thereof~~, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works, and ways;
- (iv) ~~examine and take extracts from all books, accounts, vouchers and documents relating thereto, or to any minerals obtained therefrom.~~
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of the Ordinance into effect.

## Obligation to remedy any dangerous practice.

*83* 83. (1) If in any respect such officer finds any mine or any matter, thing or practice in or connected with mining or prospecting operations to be dangerous or defective so as, in his opinion, to threaten or tend to the bodily injury of any person, he shall give notice in writing thereof to the lessee or

*Mining Engineer, an inspector or assistant inspector or any other*

*of any mine and any building connected with prospecting or mining activities*

*(iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined.*

*or stock*

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the holder of the <sup>right, location</sup> ~~claim~~ or licence or his agent in charge of the mine or operations and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

(2) ~~On receipt~~ <sup>On receipt</sup> of such notice, the lessee or the holder of the right, ~~claim~~ <sup>location</sup> or licence or his agent shall comply therewith, or, if he intends to object thereto, as provided by the following section, he shall cease to use the said mine, or part thereof, machine, plant, matter, thing or practice as to which such notice shall have been given, and shall forthwith withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner, and in case of default shall be guilty of an offence against this Ordinance: Provided that if, in the opinion of such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the ~~mine~~ <sup>location and work</sup>.

**§ 284.** If such lessee or holder of the right, <sup>location</sup> ~~claim~~ or licence or his agent objects to remedy the matter complained of in any notice under the last preceding section he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

Proceedings on objection to comply with notice.

**§ 285.** If such lessee or holder or his agent fails to comply with the requisition of the notice, where no objection is stated within the time aforesaid, or with the decision of the Commissioner or other officer as aforesaid, immediately after the expiration of the time for objection or the decision (as the case may be), he shall be liable to a penalty not exceeding seven hundred and fifty pounds.

Proceedings on failure to comply with notice.

**§ 286.** No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Agreement not to preclude or exempt.

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the holder of the <sup>right, location</sup> ~~claim~~ or licence or his agent in charge of the mine or operations and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

(2) On receipt of such notice, the lessee or the holder of the right, <sup>location</sup> ~~claim~~ or licence or his agent shall comply therewith, or, if he intends to object thereto, as provided by the following section, he shall cease to use the said mine, or part thereof, machine, plant, matter, thing or practice as to which such notice shall have been given, and shall forthwith withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner, and in case of default shall be guilty of an offence against this Ordinance: Provided that if, in the opinion of such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the <sup>location</sup> ~~mine and~~ ~~work~~.

82 84. If such lessee or holder of the right, <sup>location</sup> ~~claim~~ or licence or his agent objects to remedy the matter complained of in any notice under the last preceding section he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

Proceedings on objection to comply with notice.

83 85. If such lessee or holder or his agent fails to comply with the requisition of the notice, where no objection is stated within the time aforesaid, or with the decision of the Commissioner or other officer as aforesaid, immediately after the expiration of the time for objection or the decision (as the case may be), he shall be liable to a penalty not exceeding seven hundred and fifty pounds.

Proceedings on failure to comply with notice.

84 86. No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Agreement not to preclude or exempt.

Proceedings  
in case of  
accidents.

~~65. 27.~~ (1) Whenever an accident shall occur in connection with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the District Officer and the nearest officer of the Mines Department.

(2) In the event of any such accident the ~~Mines Officer~~ <sup>Mines Officer</sup> or ~~Administrative Officer~~ shall hold an inquiry into the cause thereof.

(3) The ~~officer~~ <sup>Mines Officer</sup> holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers of a ~~magistrate~~ to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

Compensation  
on death of,  
or injury to,  
native.

~~66. 28.~~ (1) If the person killed or injured is a native employed in connection with the mining or prospecting operations, and the lessee, or holder of the ~~lease~~ licence or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

(2) ~~If the person ordered to pay compensation or the person to whom compensation is awarded shall within fourteen days of the date of the award give notice to the officer who~~

(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.

Proceedings  
in case of  
accidents.

~~65. 27.~~ (1) Whenever an accident shall occur in connection with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the District Officer and the nearest officer of the Mines Department.

(2) In the event of any such accident the ~~Mines Officer~~ <sup>*Magistrate*</sup> or ~~Administrative Officer~~ shall hold an inquiry into the cause thereof.

(3) The ~~officer~~ <sup>*Magistrate*</sup> holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers of a ~~magistrate~~ to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

Compensation  
on death of,  
or injury to,  
native.

~~66. 28.~~ (1) If the person killed or injured is a native employed in connection with the mining or prospecting operations, and the lessee, or holder of the ~~lease~~, licence or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

(2) ~~If the person ordered to pay compensation or the person to whom compensation is awarded shall within fourteen days of the date of the award give notice to the officer who~~

(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.

~~any lease~~ <sup>and</sup> makes the award that he is dissatisfied with the award, the person to whom compensation was awarded may take such proceedings to recover such compensation as he may be entitled to under sub-section (1) in a court of competent jurisdiction as he may think fit.

## PART VII.

## MISCELLANEOUS.

~~§ 90.~~ In any case where the Government is acquiring, Compensation on acquisition of land by Government. under the Indian Land Acquisition Act, 1904, as applied to the Colony, any land held under a lease or ~~lease~~ <sup>lease</sup>, Compensation shall be payable in respect of any disturbance of mining rights, in addition to any other compensation.

~~§ 90.~~ The Governor may at any time remove from Crown land subject to any lease or ~~lease~~ <sup>lease</sup> any clay, gravel, stone, brushwood, timber or other materials required for any public works. <sup>Power to remove materials.</sup>

~~§ 91.~~ The Governor may, notwithstanding the previous grant of any ~~lease~~ <sup>lease</sup>, lease or licence over any land under this Ordinance, make any grant of such land which he is empowered by law to make: Provided that the person to whom any such grant may be made shall not be entitled to compensation for any disturbance of his rights under the grant by reason of the exercise by any lessee, or the holder of any ~~lease~~ <sup>lease</sup>, right or licence under this Ordinance of any rights conferred upon him by such lease, ~~lease~~ <sup>lease</sup>, right or licence: <sup>Subsequent grants.</sup>

Provided always that before making such grant the Governor shall give notice to the lessee, ~~lease~~ <sup>lease</sup> or licence-holder of his intention to make such grant.

~~§ 92.~~ (1) In any case where the holder of any lease, ~~lease~~ <sup>lease</sup> or licence shall— <sup>Protection of estate of deceased person, bankrupt, or lunatic.</sup>

- (i) die;
- (ii) have a receiving order in bankruptcy made against him; or
- (iii) be found to be a ~~lunatic~~ <sup>lunatic</sup> under the provisions of any law relating to lunacy for the time being in force in the Colony,

the obligations imposed upon such holder by this Ordinance and regulations thereunder shall not arise until after the expiration of ninety days—

provisions of any law relating to the compulsory acquisition of land for the time being in force in

*any person* makes the award that he is dissatisfied with the award, the person to whom compensation was awarded may take such proceedings to recover such compensation as he may be entitled to under sub-section (1) in a court of competent jurisdiction as he may think fit.

## PART VII.

## MISCELLANEOUS.

~~67~~ 68. In any case where the Government is acquiring, under the Indian Land Acquisition Act, 1901, as applied to the Colony, any land held under a lease or ~~lease~~ *lease*, compensation shall be payable in respect of any disturbance of mining rights, in addition to any other compensation. Compensation on acquisition of land by Government.

~~68~~ 69. The Governor may at any time remove from Crown land subject to any lease or ~~lease~~ *lease* any clay, gravel, stone, brushwood, timber or other materials required for any public works. Power to remove materials.

~~69~~ 71. The Governor may, notwithstanding the previous grant of any ~~lease~~ *lease*, lease or licence over any land under this Ordinance, make any grant of such land which he is empowered by law to make: Provided that the person to whom any such grant may be made shall not be entitled to compensation for any disturbance of his rights under the grant by reason of the exercise by any lessee, or the holder of any ~~lease~~ *lease*, right or licence under this Ordinance of any rights conferred upon him by such lease, ~~lease~~ *lease*, right or licence: Subsequent grants.

Provided always that before making such grant the Governor shall give notice to the lessee, ~~lease~~ *lease* or licence-holder of his intention to make such grant.

~~70~~ 72. (1) In any case where the holder of any lease, ~~lease~~ *lease* or licence shall— Protection of estate of deceased person, bankrupt, or lunatic.

(i) die;

(ii) have a receiving order in bankruptcy made against him; or

(iii) be found to be a lunatic under the provisions of any law relating to lunacy for the time being in force in the Colony,

the obligations imposed upon such holder by this Ordinance and regulations thereunder shall not arise until after the expiration of ninety days—

Provisions of any law relating to the compulsory acquisition of land for the time being in force in

91. All wages due to any person employed by the holder of a prospecting right or on any location, lease, or exclusive prospecting licence shall be paid to such person in cash when due and in no case later than seven days thereafter without any deduction whatsoever, except for cash advances, payments on orders given by the employee and goods supplied on the location, lease, or exclusive prospecting licence to the employee for his personal use.

Payment  
of wages.

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- (a) from the date of the grant of probate or the issue of letters of administration;
  - (b) from the date of the receiving order;
  - (c) from the date of the appointment of any manager of the estate of the lunatic so found,
- as the case may be.

(2) Where the grant of probate or the issue of letters of administration, the receiving order, and the appointment of any manager of the estate of the lunatic shall occur beyond the Colony, the said period of ninety days shall run from the date of the recognition by the courts of such probate or letters of administration, receiving order, or appointment of a manager.

Government  
officers pro-  
hibited from  
acquiring  
rights.

92 98. No person, whether civil or military, while in the service of the Government or of the High Commissioner, shall directly or indirectly acquire or hold any right or interest under any prospecting right, exclusive prospecting licence, ~~lease~~ or mining lease, and any right, licence or ~~lease~~ or lease or other document or transaction purporting to confer any such right or interest on any such officer shall be null and void: Provided that a temporary employee may retain rights and interests acquired prior to accepting Government employment.

Discovery of  
mineral by  
Government  
servant.

93 94. (1) In the event of discovery of minerals by any person in the service of the Government or of the High Commissioner the discoverer may peg, in the manner prescribed for pegging a ~~claim~~ <sup>claim</sup>, an area, to be called a "Government Protection Area," not exceeding one square mile. Such discovery and pegging shall be forthwith reported to the Commissioner and no person may thereafter prospect in such area without the consent of the Commissioner.

(2) Authority to mine in any such Government Protection Area may be granted by the Governor in Council to such persons and subject to such terms and conditions, as he may think fit.

Salting.

94 95. Any person who shall place or deposit or be accessory to the placing or depositing of any minerals in any place with the intent to mislead any person as to the payable nature of such place or who shall mix or cause to be mixed with any ore, any valuable metal or substance whatsoever that will increase the value or in any way change the nature of the said

Penalty for false return, etc.

95. Any person who in connexion with any return, statement or document in respect of which information is or may be required to be given under this Ordinance or the regulations wilfully or recklessly gives false information or makes a false statement, whether oral or in writing, shall, if no other penalty is specifically provided, be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

ore, with intent to deceive, cheat or defraud shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding three hundred pounds, or to both.

96. Any person who shall wilfully obstruct, hinder, assault or resist an officer, or any person duly authorised by an officer or a person authorised by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey an officer's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner or other officer when acting in a judicial capacity, shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for any ~~period~~ <sup>term</sup> not exceeding six months, or to both.

Obstructing officer.

97. Any person who—

- (a) interferes with any mining or prospecting operations authorised by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance;
- (d) without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Ordinance or under any regulations made thereunder,

Penalty for interfering with mining, etc.

shall be liable to a fine <sup>not exceeding</sup> three hundred pounds or to imprisonment <sup>for a term not exceeding</sup> three years, or to both.

98. The Commissioner or any officer of the Mines Department may conduct or assist in conducting a prosecution for any offence against this Ordinance.

Power of Commissioner to conduct prosecutions.

99. Any officer of the Mines Department may without warrant arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Ordinance: Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law.

Power to arrest.

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No. I

Penalty for  
false return,  
etc.

95. Any person who in connexion with any return, statement or document in respect of which information is or may be required to be given under this Ordinance or the regulations wilfully or recklessly gives false information or makes a false statement, whether oral or in writing, shall if no other penalty is specifically provided, be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

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96. Any person who shall wilfully obstruct, hinder, assault or resist an officer, or any person duly authorised by an officer or a person authorised by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey an officer's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner or other officer when acting in a judicial capacity, shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for any ~~period~~ <sup>term</sup> not exceeding six months, or to both.

Obstructing  
officer.

97. Any person who—

- (a) interferes with any mining or prospecting operations authorised by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance;
- (d) without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Ordinance or under any regulations made thereunder.

Penalty for  
interfering  
with mining,  
etc.

shall be liable to a fine <sup>not exceeding</sup> of three hundred pounds or to imprisonment <sup>for a term not exceeding</sup> for three years, or to both.

98. The Commissioner or any officer of the Mines Department may conduct or assist in conducting a prosecution for any offence against this Ordinance. Power of  
Commissioner  
to conduct  
prosecutions.

99. Any officer of the Mines Department may without warrant arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Ordinance: Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law. Power to  
arrest.

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General  
penalty.

100. Any person who commits any breach of any of the provisions of this Ordinance for which a penalty is not expressly provided, shall be liable by a fine of one hundred pounds or to imprisonment for six months or to both.

Power to make  
regulations.

101. The Governor in Council may make regulations in connection with or for all or any of the matters or purposes following:—

- (a) the manner in which applications for any right, licence, claim or lease which may be granted under this Ordinance shall be made and the forms to be used;
- (b) the information to be supplied by the applicants;
- (c) the classes of ~~claims~~ <sup>locations</sup> and leases;
- (d) the manner in which ~~claims~~ <sup>locations</sup> shall be ~~made~~ <sup>marked</sup> ~~and~~ <sup>and</sup> ~~be~~ <sup>be</sup> ~~made~~ <sup>made</sup>;
- (e) the shape of the areas over which exclusive prospecting licences may be granted;
- (f) the size and shape of the areas over which claims or mining leases may be granted;
- (g) the manner in which areas and boundaries shall be surveyed, marked and beacons and the fees payable in respect of such survey ~~shall be performed by persons~~ <sup>shall be performed by persons</sup>;
- (h) the working conditions to be applied to mining leases, ~~claims~~ <sup>locations</sup> and licences;
- (i) the construction and use of roads, tramways, and railways;
- (j) the construction and erection of houses, pits, shafts, machinery, and other works to be used for prospecting or mining purposes;
- (k) the fencing off or rendering secure of any shaft, ~~tunnel, drive or other works constructed, erected or made for prospecting or mining purposes;~~ <sup>well, tunnel</sup>;
- (l) the grazing of cattle or other animals and the cutting down and use of timber for the purpose of carrying on prospecting and mining operations;
- (m) the safety of ~~persons~~ <sup>any health</sup> employed in mines and the carrying on of prospecting or mining operations in a safe, proper and effectual manner;
- (n) the renewal, transfer, assignment and surrender of rights under licences, ~~claims~~ <sup>locations</sup> and mining leases;

(e) the manner in which protection areas may be acquired, their size and shape, the fees payable in respect thereof, and the period for which they may be held;

- (s) the counting of development done on the area of one licence, location or lease towards development due to be done on the area of another licence, location or lease in the same ownership;

provided that, notwithstanding any such repeal, any right or title granted under the Mining Ordinance, 1925, may continue to be of full force and effect as prescribed by that Ordinance for a period of twelve months from the date on which this Ordinance comes into operation

- (f) the registration in the office of the Commissioner of mining leases, ~~claims~~ and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (g) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of ~~claims~~ and of exclusive prospecting licences;
- (h) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties, and the manner and time of payment thereof;
- (i) ~~for determining what proportion of any precious metal per ton any ore may contain without coming under the definition of precious minerals;~~
- (s) ~~the amalgamation of licences, claims and leases;~~
- (t) the disposal of any poisonous or noxious products the result of mining operations;
- (u) the procedure on an appeal to the Governor;
- (v) the fees to be paid in respect of any matter or thing done under this Ordinance;
- (w) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines;
- (x) the defiling or wasting of water, wherever situated and wherever obtained;
- (y) generally for the carrying into effect the purposes of this Ordinance.

102. The Mining Ordinance, 1925, as amended by the Mining (Amendment) Ordinance, 1927, and the Mining (Amendment) Ordinance, 1927, is hereby repealed.

Repeal.  
No. 2 of 1981.  
No. 14 of 1925.  
No. 20 of 1925.

Provided that notwithstanding such repeal any right or title granted under the Ordinance, ~~as repealed~~ shall be limited as prescribed by the Ordinance under which it was granted; and provided further that except as may be expressly provided by such right or title or by such Ordinance the holder of any such right or title shall hold and exercise such right or title in accordance with the conditions set forth in this Ordinance, and in all respects as if such right or title were issued under this Ordinance.

(s) the counting of development done on the area of one licence, location or lease towards development due to be done on the area of another licence, location or lease in the same ownership;

provided that, notwithstanding any such repeal, any right or title granted under the Mining Ordinance, 1925, may continue to be of full force and effect as prescribed by that Ordinance for a period of twelve months from the date on which this Ordinance comes into operation

- (f) the registration in the office of the Commissioner of mining leases, ~~claims~~ and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (g) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of ~~claims~~ and of exclusive prospecting licences;
- (h) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties, and the manner and time of payment thereof;
- (i) ~~for determining what proportion of any precious metal per ton any ore may contain without coming under the definition of precious minerals;~~
- (s) the amalgamation of licences, claims and leases;
- (t) the disposal of any poisonous or noxious products the result of mining operations;
- (u) the procedure on an appeal to the Governor;
- (v) the fees to be paid in respect of any matter or thing done under this Ordinance;
- (w) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines;
- (x) the defiling or wasting of water, wherever situated and wherever obtained;
- (y) generally for the carrying into effect the purposes of this Ordinance.

102. The Mining Ordinance, 1925, as amended by the Mining (Amendment) Ordinance, 1927, and the Mining (Amendment) Ordinance, 1931, is hereby repealed.

Repeal.  
No. 3 of 1925.  
No. 14 of 1927.  
No. 30 of 1931.

Provided that, notwithstanding such repeal, any right or title granted under the Ordinance, ~~repealed~~ shall be limited as prescribed by the Ordinance under which it was granted; and provided further that except as may be expressly provided by such right or title or by such Ordinance the holder of any such right or title shall hold and exercise such right or title in accordance with the conditions set forth in this Ordinance, and in all respects as if such right or title were issued under this Ordinance.