

Page 3221—*Mining Ordinance 1928-1940.*

In the fourth column of Part II. of the Table in note (1), for “24.5.1940” read “31.5.1940”, and in the fifth column, for “24.5.1940” (*N.G. Gaz. of 24.5.1940*)” read “31.5.1940 (*N.G. Gaz. of 31.5.1940*)”.

MINING ORDINANCE 1928-1940.⁽¹⁾

An Ordinance Relating to Mining.

BE it ordained by the Deputy of the Governor-General of the Commonwealth of Australia, with the advice of the Federal

(1) The *Mining Ordinance* 1928-1940 comprises the *Mining Ordinance* 1928, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Mining Ordinance</i> 1928 (No. 18 of 1928)	30.8.1928	4.9.1928	1.12.1928 (<i>N.G. Gaz.</i> of 15.11.1928)
<i>Mining Ordinance</i> 1930 (No. 2 of 1930)	9.1.1930	23.1.1930	1.12.1928 (Sec. 2, <i>Mining Ordinance</i> 1930)
<i>Mining Ordinance</i> (No. 2) 1930 (No. 10 of 1930)	19.2.1930	20.2.1930	20.2.1930 (<i>Cwltth. Gaz.</i> of 20.2.1930)
<i>Mining Ordinance</i> 1931 (No. 29 of 1931)	23.9.1931	24.9.1931	Secs. 1, 2, 3, 6 and 7, on 24.9.1931 (<i>Cwltth. Gaz.</i> of 24.9.1931); Sec. 4 on 1.8.1931 (Sec. 4(2), <i>Mining Ordinance</i> 1931); Sec. 5 on 1.1.1930 (Sec. 5(2), <i>Mining Ordinance</i> 1931); and Sec. 8 on 4.9.1928 (Sec. 8(2), <i>Mining Ordinance</i> 1931)
<i>Mining Ordinance</i> 1932 (No. 5 of 1932)	13.4.1932	28.4.1932	28.4.1932 (<i>Cwltth. Gaz.</i> of 28.4.1932)
<i>Mining Ordinance</i> (No. 2) 1932 (No. 10 of 1932)	25.6.1932	30.6.1932	25.6.1932 (<i>Cwltth. Gaz.</i> of 30.6.1932)
<i>Mining Ordinance</i> 1933 (No. 1 of 1933)	23.12.1932	5.1.1933	5.1.1933 (<i>Cwltth. Gaz.</i> of 5.1.1933)
<i>Mining Ordinance</i> (No. 2) 1933 (No. 11 of 1933)	10.4.1933	12.4.1933	12.4.1933 (<i>Cwltth. Gaz.</i> of 12.4.1933)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date of reservation by Administrator.	Date on which assent of Gov.-Gen. in Council published in <i>N.G. Gaz.</i>	Date on which came into operation.
<i>Mining Ordinance</i> 1935 (No. 19 of 1935)	—	14.1.1935	15.6.1935	15.1.1936 (<i>N.G. Gaz.</i> of 15.11.1935)
<i>Mining Ordinance</i> (No. 2) 1935 (No. 40 of 1935)	31.7.1935	—	—	15.1.1936 (Sec. 2, <i>Mining Ordinance</i> (No. 2) 1935)
<i>Mining Ordinance</i> 1936 (No. 30 of 1936)	—	25.2.1936	30.5.1936	30.5.1936 (<i>N.G. Gaz.</i> of 30.5.1936)
<i>Mining Ordinance</i> (No. 2) 1936 (No. 48 of 1936)	—	5.8.1936	30.9.1936	30.9.1936 (<i>N.G. Gaz.</i> of 30.9.1936)
<i>Mining Ordinance</i> 1939 (No. 23 of 1939)	—	6.9.1939	23.9.1939	30.9.1939 (<i>N.G. Gaz.</i> of 23.9.1939)
<i>Mining Ordinance</i> 1940 (No. 8 of 1940)	—	2.4.1940	24.5.1940	24.5.1940 (<i>N.G. Gaz.</i> of 24.5.1940)
<i>Mining Ordinance</i> (No. 2) 1940 (No. 17 of 1940)	—	24.9.1940	15.11.1940	4.6.1940 (Sec. 2, <i>Mining Ordinance</i> (No. 2) 1940)

MINING—

Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Mining Ordinance 1928-1940*.⁽¹⁾

Short title
and citation.
Amended by
No. 3 of 1934,
s. 50.

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

Parts and
Divisions.
Section 2
amended by
No. 29 of 1931,
s. 2, and by
No. 19 of 1935,
ss. 3 and 27.

Part I.—Preliminary.

Part II.—Gold-fields and Mineral Fields.

Division 1.—Gold-fields.

Division 2.—Mineral Fields.

Part III.—Miners' Rights and Business Licences.

Division 1.—Miners' Rights.

Division 2.—Business Licences.

Division 3.—Provisions applicable to Miners' Rights
and Business Licences.

Part IIIA.—Exclusive Prospecting Licences.

Part IV.—Mining Leases.

Division 1.—Gold-mining Leases.

Division 2.—Mineral Leases.

Division 3.—Provisions applicable to Gold-mining
Leases and Mineral Leases.

Part V.—Mining on Reserves, Residence Areas and
Business Areas.

Part VA.—Mining on Land to which this Ordinance
or the repealed Ordinance has been
declared not to apply.

Part VI.—Mining on Alienated Lands.

Part VIA.—Provisions relating to Gold Returns and the
Enforcement of Payment of Royalty.

Part VIB.—Special Mining Easements.

Part VIC.—Tribute Agreements.

Part VII.—Administration.

Division 1.—Wardens' Courts, Wardens and other
Officers.

Division 2.—Procedure of Wardens' Courts.

Division 3.—Special Powers and Duties.

Division 4.—Mode of enforcing Orders and Decisions
and Interpleader.

(1) See footnote (1) printed on p. 3221.

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Division 5.—Statement of Special Case for the
Opinion of the Supreme Court.

Division 6.—Appeals to Supreme Court.

Division 7.—Costs.

Part VIII.—General Provisions.

* * * * *

Part X.—Mining on Native Lands.

Part XI.—Reservation to the Administration of Gold,
Silver, Minerals, Coal, Shale and Mineral
Oils.

Part XII.—Mining Rights of Natives.

Part XIII.—Regulations.

Part IX.
omitted by
No. 19 of 1935,
s. 3.

3. This Ordinance shall commence on a day to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾ Commencement.

4.—(1.) The Ordinances set forth in the Schedule to this Ordinance are repealed. Sub-section (1)
substituted by
No. 2 of 1930,
s. 3.

(2.) Any person appointed under the repealed Ordinance and holding office at the commencement of this Ordinance and any office established under the repealed Ordinance shall continue and be deemed to have been appointed or established, as the case may be, under this Ordinance. Sub-section (2)
amended by
No. 2 of 1930,
s. 3.

(3.) Subject to this section all lands and mining tenements which at the time of the repeal of the repealed Ordinance are applied for, leased, occupied, used or enjoyed under the provisions of the repealed Ordinance shall as far as practicable be dealt with according to the provisions of this Ordinance and subject thereto in accordance with the provisions of the repealed Ordinance which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof.

(4.) The repeal of the repealed Ordinance shall not affect any inquiry, hearing, appeal, proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment acquired, accrued or incurred under the repealed Ordinance and any such proceeding or remedy may be instituted continued or enforced and any such penalty forfeiture or punishment may be imposed as if this Ordinance had not been passed, provided that all matters of procedure shall be governed by this Ordinance.

(5.) Unless this Ordinance otherwise expressly provides, all lands and mining tenements which at the time of the coming into force of this Ordinance are leased, occupied, used or enjoyed under the provisions of the repealed Ordinance shall, until they are

(1) See footnote (1) printed on p. 3221.

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surrendered or forfeited, or the existing title or right thereto is otherwise determined, continue to be subject to such provisions in the same manner as if this Ordinance had not been passed, and the owner of any such lands or tenements shall be entitled to all the privileges conferred on holders of such lands and tenements under this Ordinance.

(6.) Any Proclamation, notification, document, notice, licence, lease, certificate or authority issued, made, given or granted under the repealed Ordinance shall continue in force as if it had been issued, made, given or granted under this Ordinance.

Suspension of application of Ordinance to defined areas.

5. The Administrator may, by Proclamation⁽²⁾ at any date after the publication by the Administrator of the notice fixing the day of commencement of this Ordinance, declare that this Ordinance or such Parts or Sections thereof as are specified in the Proclamation, shall not apply to any area specified in the Proclamation until a date to be subsequently notified by the Administrator in the *New Guinea Gazette*; and after the publication of the Proclamation and until the date so notified this Ordinance or the Parts or Sections thereof so specified shall not apply to that area.

Definitions.

6. In this Ordinance, unless the contrary intention appears—

“Administration Land” or “Administration Lands” includes all lands the right, title, estate, interest, control or prerogatives of the Government in, over or to which passed to the Commonwealth in the terms of the *Laws Repeal and Adopting Ordinance 1921-1927*,⁽³⁾ and all lands vested in the Administration which have not been dedicated to any public purpose, and which have not been granted in fee simple or lawfully contracted to be so granted, and all lands held under lease from the Administrator, excepting lands held under any mining lease held under this or the repealed Ordinance, and includes all native lands;

“Agent” means a person acting on behalf of the owner or occupier and includes a person having the care or direction of a mine or of any part thereof or of any works connected therewith;

“Alluvial Ground” means ground containing gold or other minerals found in detritus resulting from the disintegration of older deposits whose constituents have been brought into their present position by mechanical agencies;

Amended by No. 19 of 1935, s. 4.

Amended by No. 19 of 1935, s. 4.

(2) A Table containing particulars of proclamations made pursuant to Section 5 of the present Ordinance and of proclamations made pursuant to Section 3A of the repealed *Mining Ordinance 1922-1928* (which was in similar terms to the present Section 5) and continued in force by the present Ordinance, is printed on p. 3391. The proclamations still in force are printed immediately after the Table.

(3) Now the *Laws Repeal and Adopting Ordinance 1921-1939*.

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- “Business Area” means a portion of Administration land occupied by the holder of a Business Licence;
- “Business Licence” means a Business Licence issued under the provisions of this Ordinance or the repealed Ordinance;
- “Claim” means the portion of Administration land lawfully taken possession of by any person or persons who are entitled to occupy the same for the purpose of mining or any number of such portions lawfully amalgamated by the holders, but does not include land comprised in any mining lease;
- “Drive” means any passage in a mine in any direction or in any angle whatsoever other than a shaft; provided that the term may if necessary include any extension or continuation of such shaft;
- “Earth” means any rock, stone, quartz, clay, sand, soil or mineral;
- “Existing” means existing at the time of the commencement of this Ordinance;
- “Gold” includes—
- (a) platinum, osmium, iridium, and any metal belonging to the platinum group of metals; and
 - (b) gold or any earth or substance containing or having mixed in the substance thereof, or set apart for the purpose of extracting any gold, platinum, osmium, iridium, or metal belonging to the platinum group of metals;
- “Gold-field” means any portion of Administration land proclaimed or constituted or deemed to have been proclaimed or constituted a gold-field;
- “Gold-mining Lease” means a lease for the purpose of mining for gold or for purposes connected with such mining;
- “Improvements” means any house, store, stable, hut or other building, or any fence, well, dam, tank, reservoir, trough, pump or other apparatus for raising water or any garden, plantation or cultivation;
- “Insolvency” includes liquidation by arrangement;
- “Inspector” means an Inspector appointed or deemed to have been appointed under the provisions of this Ordinance;
- “Judge” means a Judge of the Supreme Court;

Amended by
No. 19 of 1935,
s. 27.

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Inserted by
No. 19 of 1935,
s. 4.

- “Licence” means an exclusive prospecting licence granted under this Ordinance;
- “Machinery” means steam or other engines, boilers, furnaces, stampers, rollers, winding and pumping gear, chains, trucks, tramways, tackle, blocks, ropes, tools and all appliances of whatever kind used in or about a mine or about any works used for the treatment of metals or minerals;
- “Mine” means any place, pit, shaft, drive, level or other excavation, drift, gutter, vein, lode or reef wherein or whereby any operation for or in connexion with mining purposes is or shall be carried on;
- “To mine” means to disturb, remove, cart, carry, wash, sift, smelt, refine, crush or otherwise deal with any earth by any mode or method whatsoever for the purpose of obtaining gold or any other mineral therefrom;
- “Mineral Field” means any portion of Administration land proclaimed or constituted or deemed to have been proclaimed or constituted^(3A) under the provisions of this or the repealed Ordinance;
- “Mineral Lease” means a lease for the purpose of mining for any mineral other than gold or for purposes connected with such mining;
- “Mining Lease” includes a gold-mining lease, and a mineral lease;
- “Mining Manager” or “Manager” means the person who has the management of the mining operations carried on in or about a mine;
- “Mining Purposes” means the purpose of searching for or obtaining gold or any other mineral from earth by any mode or method of mining, and of stacking or otherwise storing any earth or ore containing gold or any mineral; and includes cutting and constructing any tunnel, water-race, drain, dam or reservoir, or constructing any railway or tramway, or laying any pipes for the purpose of mining, erecting buildings and machinery to be used for any process whatsoever in connexion with the extracting of gold or minerals, pumping or raising water to or from land mined or worked or intended to be worked for the extraction of gold or minerals therefrom, treatment of tailings on abandoned land, and any other work which the Administrator by proclamation declares to be a mining purpose;

(3A) The definition of “mineral field” is printed as it appeared in the original Ordinance. The words “a mineral field” have now been inserted after “constituted” (second occurring) by the First Schedule of the *Ordinances Reprint and Revision Ordinance* 1947 of the Territory of Papua-New Guinea.

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- “Mining Tenement” means any land held under a mining lease or application therefor, or any claim or any area, water-race, drain, dam, reservoir, stack or accumulation of earth containing gold or any other mineral, or any easement taken up, held, occupied, used or enjoyed under or by virtue of a miner’s right or business licence;
- “New Gold-field” means a gold-field or portion of a gold-field until after the lapse of three years from the date of the proclamation constituting the gold-field or portion of a gold-field (whether such proclamation was made under this or any other Ordinance) or until after the lapse of such further period from that date as the Administrator either before or after the commencement of this Ordinance declares or appoints;
- “New Mineral Field” means a mineral field or portion of a mineral field until after the lapse of three years from the date of the proclamation constituting the mineral field or portion of a mineral field (whether such Proclamation was made under this or any other Ordinance) or until after the lapse of such further period from that date as the Administrator either before or after the commencement of this Ordinance declares or appoints;
- “Owner” means the holder of any mining tenement or any sub-lessee of any tenement, or any person in possession of such tenement with the consent of the holder;
- “Permit” means a permit granted under Part VA. of this Ordinance; Inserted by
No. 29 of 1931,
s. 3.
- “Plan” means an original plan or section and includes a correct copy or tracing of any original plan or section; Substituted by
No. 19 of 1935,
s. 4.
- “Proclamation” means Proclamation in the *New Guinea Gazette*;
- “Prospect” or “Prospecting” 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; Inserted by
No. 19 of 1935,
s. 4.
- “Regulations” means the Regulations and Forms for the time being in force under the provisions of this Ordinance
- “Reserve” means any street or road or any lands which are for the time being set apart as a reserve for public purposes or are held by any corporation or person on trust for public purposes; Amended by
No. 29 of 1931,
s. 3.

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“Residence Area” means a portion of Administration land and such portion of the surface of gold-mining leases and mineral leases as is reserved for residence purposes and occupied for the purposes of residence by the holder of a miner’s right;

Inserted by
No. 19 of 1935,
s. 4.

“Secretary for Mines” means the Secretary, Department of Lands, Surveys, Mines, Forests and Titles;

“Shaft” means a downward excavation perpendicular or at any angle sunk from the surface designed for the working and removal of underground metalliferous ores, minerals or metals, for the removal of water, for ventilation or for a travelling road for the use of such human beings or animals as are employed in the working of mines;

“Stock” means any bull, cow, ox, heifer, steer, calf, horse, mare, gelding, colt, filly, ass, mule, sheep, goat, camel, or swine;

Inserted by
No. 19 of 1935,
s. 4.

“Surveyor” means a surveyor licensed under any law in force in the Territory relating to surveyors and includes a mining surveyor appointed under this Ordinance;

Inserted by
No. 2 of 1930,
s. 4.

“The repealed Ordinance” means the *Mining Ordinance* 1922-1928;

Inserted by
No. 19 of 1935,
s. 4.

“Tribute Agreement” means an agreement made by the lessee or other holder of a mining tenement with any other person to work the mining tenement upon terms providing that the lessee or other holder shall pay to or receive from that person a portion or percentage of the gold or other minerals won or of the proceeds of the sale thereof;

Inserted by
No. 19 of 1935,
s. 4.

“Tributer” means any person who makes a tribute agreement with a lessee or other holder of a mining tenement;

“Unauthorized person” means any person not being a government official or other person authorized by the Warden or authorized under this Ordinance or the lessee or licensee under this Ordinance or any person employed by the lessee or licensee;

“Warden” means any Warden appointed or deemed to have been appointed under the provisions of this Ordinance and includes an Assistant Warden and any person appointed under the provisions of this Ordinance to act as Warden;

“Warden’s Court” means any court held by and before a Warden.

Mining Ordinance 1928-1940.

PART II.—GOLD-FIELDS AND MINERAL FIELDS.

Division 1.—Gold-fields.

7. The Administrator may by proclamation⁽⁴⁾—

Proclamation
of gold-fields.

- (a) constitute any portion of Administration land to be a gold-field; or
- (b) alter or amend the boundaries of a gold-field or abolish any gold-field.

8. Every existing gold-field⁽⁵⁾ proclaimed or constituted before the commencement of this Ordinance shall subject to this Ordinance be and remain a gold-field for the purposes of this Ordinance, and so far as is necessary shall be deemed to have been constituted and proclaimed under the provisions of this Ordinance.

Existing
gold-fields.

9.—(1.) Whenever the discovery of payable gold on Administration lands is reported in writing under the hand of, and signed by, the person claiming to have made the discovery (or, if the person is unable to write, by a writing attested by a District Officer, justice of the peace or Warden) to the Warden whose office is nearest the situation of the discovery, the notification of the discovery by the Warden posted outside his office shall operate to proclaim the portion or portions of Administration lands to be a gold-field which shall be contained in a square the boundary lines of which shall be directed to the cardinal points and the central point in each boundary line whereof shall be distant half-a-mile from the place of discovery, and the notification shall have the effect of a provisional proclamation⁽⁶⁾ of the area as a gold-field and shall be in force until it is revoked⁽⁷⁾ or cancelled or any enlarged or diminished area is proclaimed under the provisions of this Ordinance.

Provisional
proclamation
of gold-fields.

(2.) A notification under this section shall not be posted until the Warden is satisfied by personal inspection that payable gold has been discovered on the land.

Notification.

(4) A Table containing particulars of proclamations made pursuant to Section 7 of the present Ordinance and of proclamations made pursuant to Section 5 of the repealed *Mining Ordinance 1922-1928* (which was in similar terms to the present Section 7) and continued in force by the present Ordinance, is printed on p. 3407. The proclamations still in force are printed immediately after the Table.

(5) The only existing gold-field constituted before the commencement of the *Mining Ordinance 1928-1940* was the whole of the District of Morobe, the boundaries of which were set forth in a Proclamation (made under the *Administrative Districts Ordinance, 1922*) dated 23.10.1922, published in *N.G. Gaz.* of 31.10.1922 and printed on p. 2009. This area was constituted a gold-field by Proclamation dated 28.2.1923 and published in *N.G. Gaz.* of 28.2.1923. The boundaries, however, have been amended by a Proclamation dated 1.5.1930, and published in *N.G. Gaz.* of 15.5.1930, and again by a Proclamation dated 7.3.1933 and published in *N.G. Gaz.* of 15.3.1933. The original Proclamation and the later amending Proclamation are printed on p. 3408.

(6) A Table containing particulars of provisional proclamations made pursuant to Section 9 is printed on p. 3412 and the proclamations still in force are printed immediately after the Table.

(7) Pursuant to Section 10 a proclamation of revocation was made on 7.3.1933 and published in *N.G. Gaz.* of 15.3.1933. See p. 3412.

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Date of operation.

(3.) A notification under this section shall operate retrospectively from the day upon which the discovery was reported, and the proclamation shall be published in the *New Guinea Gazette* as soon as practicable after the posting thereof.

Revocation.

10. If the Warden to whom the discovery is reported, or any officer in that behalf authorized by the Administrator, at any time during the continuance of the provisional proclamation, reports to the Administrator that the alleged discovery of payable gold does not in his opinion warrant the proclamation as a gold-field of the area the Administrator may, by notice in the *New Guinea Gazette*, revoke and cancel the provisional proclamation⁽⁷⁾ of the area, and the lands comprised therein shall thereupon resume the same character and incidents as were attached to them before the notification of the discovery.

Division 2.—Mineral Fields.

Proclamation of mineral fields.

11. The Administrator may by proclamation⁽⁸⁾—

- (a) constitute any portion of Administration land to be a mineral field;
- (b) alter or amend the boundaries of a mineral field or abolish a mineral field; or
- (c) constitute any portion of a mineral field or the whole thereof an area within which mining shall be carried on solely by the holders of miners' rights.

PART III.—MINERS' RIGHTS AND BUSINESS LICENCES.

Division 1.—Miners' Rights.

Miner's right.

12.—(1.) The Administrator may if he thinks fit issue or authorize the issue of miners' rights.

Sub-section (2) amended by No. 23 of 1939, s. 3.

(2.) A miner's right may be issued for any number of years not exceeding ten, and subject to the provisions of this Part may be granted to any person applying for it upon payment of a sum at the rate of One pound for every year of which the right is to be in force.

(3.) Subject to this Ordinance a miner's right shall not be transferable.

(7) Pursuant to Section 10, a proclamation of revocation was made on 7.3.1933 and published in *N.G. Gaz.* of 15.3.1933. See p. 3412.

(8) A Table containing particulars of proclamations made pursuant to Section 11 of the present Ordinance and of proclamations made pursuant to Section 9 of the repealed *Mining Ordinance 1922-1928* (which was in similar terms to the present Section 11) and continued in force by the present Ordinance, is printed on p. 3416. The proclamations still in force are printed immediately after the Table.

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13. On the face of every miner's right issued under the provisions of this Ordinance shall be specified—

Form of
miner's right.

- (a) the date and place of issue thereof; and
- (b) the name of the person in whose favour it is issued.

14.—(1.) The Administrator may issue or cause to be issued consolidated miners' rights.

Issue of
consolidated
miner's right.

(2.) A consolidated miner's right may be issued for any number of years not exceeding ten, and may be granted to any company or co-operative body of persons who have agreed to work in co-ownership or co-partnership any claim taken up or held under the provisions of this Ordinance, or to any manager, trustee or trustees for the company or co-operative body applying for the right, and shall during its continuance be held on behalf of the persons who are from time to time members of the company or co-operative body.

(3.) A consolidated miner's right shall be in lieu of and represent and be of the same force and effect as a number of existing miners' rights granted for the same period of time equal to the number of the miners' rights by virtue of which the claim or claims is or are taken possession of or held, and the right may be granted to any company, co-operative body or persons specified in the last preceding sub-section so applying on payment of a sum at the rate specified in sub-section (2.) of section twelve of this Ordinance multiplied by the number of miners' rights which the right is to represent.

15. If a miner's right has been accidentally lost or destroyed before the expiry of the time for which it was issued a duplicate right may be issued for the remainder of that time at a fee of Five shillings upon the applicant giving satisfactory evidence to the Warden of the loss of the right.

Duplicate of
miner's
right in
case of loss.

16. The holder of a miner's right shall, subject to the provisions of this Ordinance and the Regulations, be entitled (except as against the Administrator)—

Privileges
conferred by
a miner's right.

- (a) To take possession of, mine and occupy Administration lands for mining purposes;
- (b) To cut, construct and use races, dams and reservoirs, roads and tramways required for mining purposes through and upon any Administration lands;
- (c) To take or divert water from any natural spring, lake, pool or stream situate in, or flowing through, Administration lands, and to use such water for mining purposes and for his own domestic purposes;

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- (d) To use, by way of an easement, any unoccupied Administration lands;
- (e) To take possession of and occupy Administration lands and such portion of the surface of gold-mining leases or mineral leases as are reserved for the purpose of residence, but, except as otherwise provided in this Ordinance, not for business purposes;
- (f) To put up and at any time to remove any building or other erection upon land so taken up and occupied;
- (g) For his personal use for mining or domestic purposes, and for the purpose of building himself a place of residence—
 - (i) to cut and remove timber, subject to the provisions of any Ordinance relating to Administration land for the preservation of timber in force for the time being; and
 - (ii) to remove any stone, clay, or gravel, from any claim occupied by him or from unoccupied Administration lands.

Paragraph (g) substituted by No. 48 of 1936, s. 2.

Holder of miner's right not to mine on land comprised in dredging or sluicing lease.

Inserted by No. 2 of 1930, s. 5.

Title to land under miner's right.

16A. Authority shall not be granted to any holder of a miner's right to enter upon and carry on mining operations on any land comprised in any dredging or sluicing lease granted under the repealed Ordinance.

17.—(1.) Any person taking up and occupying Administration lands by virtue of a miner's right shall, subject to the provisions of this Ordinance and the Regulations, be deemed in law to be possessed (except as against the Administrator) of the land so taken up and occupied.

(2.) All gold found upon any land so taken up and occupied for the purpose of mining for gold, and all minerals other than gold, mineral oil, and coal found upon any land so taken up and occupied for the purpose of mining for minerals other than gold, shall be the absolute property of the holder of the miner's right in lawful occupation of the land.

(3.) The holder of the land so taken up and occupied may, in the prescribed manner, assign, transfer, let or lease and encumber the land or any share or interest therein.

(4.) No person shall obtain any interest under any such assignment, transfer, lease or encumbrance unless he is the holder of a miner's right authorizing him to take up and occupy such land.

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18. Notwithstanding anything contained in section four of this Ordinance a Royalty at the rate of five per centum on the value of all gold obtained after the commencement of this Ordinance from any land taken up and occupied by virtue of a miner's right shall be payable to the Administrator by the holder of the miner's right at the time and in the manner prescribed.

Royalty.

Division 2.—Business Licences.

19.—(1.) The Administrator may, if he thinks fit, issue or cause to be issued business licences.

Issue of business licence.

(2.) A business licence shall be in force for a period of not more than ten years, and, subject to this Ordinance, any such document may be granted to any person applying for it upon payment of a sum at the rate of Five pounds or such rate as is prescribed for every year for which the licence is to be in force and the holder of the licence shall, subject to the Regulations, be entitled to a renewal thereof.

20. On the face of every business licence issued under the provisions of this Ordinance shall be specified—

Form of business licence.

- (a) the date and place of issue of the licence; and
- (b) the name, occupation and residence of the person in whose favour it is issued.

21.—(1.) A business licence shall, subject to the provisions of this Ordinance and the Regulations, entitle the holder thereof during its continuance—

Rights and privileges conferred by business licence.

- (a) to occupy the prescribed area of Administration lands within the limits of any gold-field or mineral field for the purpose of residence and carrying on his business;
- (b) for either of the purposes specified in the last preceding paragraph to put up and at any time to remove any building or other erection thereon; and
- (c) to hold in lawful possession (except as against the Administrator) the surface only of the land so occupied.

(2.) No person shall be entitled, by virtue of a business licence, to occupy at the same time more than one business area.

22. The holder's interest in a business licence may at any time during its currency be assigned or transferred in the following manner:—

Transfer of business licence.

- (a) The holder shall, in writing under his hand indorsed upon the licence and signed by him in the presence

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of a witness, express his desire and intention to assign or transfer his interest in the licence to a person named in the indorsement; and

- (b) Upon the production and surrender to the Warden of the licence so indorsed and upon payment of the sum of Ten shillings the person named in the indorsement shall be entitled to a new licence in the prescribed form for the unexpired period of the original licence.

Division 3.—Provisions applicable to Miners' Rights and Business Licences.

Nature of interest in land held under miner's right or business licence.

23. The interest in land held under a miner's right or business licence shall be and be deemed to be a chattel interest, and a miner's right and a business licence and all rights and privileges conferred thereby shall, on the death or insolvency of the holder thereof, devolve upon and become vested in his personal representative or trustee in insolvency, as the case may be, in the same manner as if the right or licence had been originally issued to that representative or trustee.

Post dating of miner's right or business licence.

24. If any person who is the holder of a miner's right or business licence at any time before the expiration of its currency makes application to the proper officer to take out a new right or licence, the authorized officer shall, upon production of such expiring right or licence and upon payment of the sum payable for a miner's right or business licence, as the case may be, issue to the applicant a new right or licence dated as of the day of such expiration which shall have the same force and efficiency as if it had been issued on that day.

Exemption of certain lands from occupation under miner's right or business licence.

25.—(1.) The undermentioned Administration lands, that is to say:—

- (a) Land in lawful occupation as a yard, garden, orchard or cultivated field;
- (b) Land in actual occupation on which a house, shed or other building has been erected; and
- (c) Land on which an artificial dam or reservoir has been made or well or bore sunk,

shall only be liable to occupation by the holder of a miner's right or business licence upon payment of compensation to be determined in the prescribed manner.

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(2.) The Administrator may at any time by proclamation⁽⁹⁾ exempt from occupation by the holder of a miner's right or business licence any specified portions of Administration lands, or any class of Administration lands.

PART IIIA.—EXCLUSIVE PROSPECTING LICENCES.

Part IIIA.
inserted by
No. 19 of 1935,
s. 5.

25A.—(1.) The holder of a miner's right may, in accordance with the prescribed form, make an application for an exclusive prospecting licence for any area not exceeding seven thousand hectares of land.

Application
for licence.

Section 25A
inserted by
No. 19 of 1935,
s. 5.

(2.) The application shall be accompanied by—

- (a) a description and sketch plan showing the boundaries and position of the area;
- (b) an application fee of Five pounds; and
- (c) a deposit of an amount calculated on the number of hectares in the area the subject of the application at one-half the rate prescribed for the annual licence-fee.

25B. An applicant for a licence who wilfully or recklessly gives false information as to any matter in respect of which information is or may be required under the provisions of this Ordinance or the Regulations shall be guilty of an indictable offence.

Penalty for
false
information.

inserted by
No. 19 of 1935,
s. 5.

Penalty: Two hundred pounds or imprisonment for twelve months, or both.

25C. Before a licence is granted the Administrator may require the applicant to—

Applicant may
be required to
furnish
guarantee, &c.

Section 25C
inserted by
No. 19 of 1935,
s. 5.

Paragraph (a)
amended by
No. 48 of 1936,
s. 3.

- (a) furnish a guarantee in accordance with the prescribed form with at least one surety approved by the Administrator in such sum, not being less than Two hundred pounds or more than Two thousand pounds, as the Administrator directs, for the observance of the provisions of this Ordinance and the Regulations;
- (b) satisfy him that the applicant has sufficient capital to carry on the proper prospecting of the area; and

(9) Two proclamations were made pursuant to Section 22 of the repealed *Mining Ordinance 1922-1928* (which was in similar terms to the present Section 25); one was dated 11.6.1927 and published in *N.G. Gaz.* of 16.6.1927 with respect to a portion of Administration land at Edie Creek in the District of Morobe, and the other was dated 11.10.27 and published in *N.G. Gaz.* of 15.10.1927, also with respect to a portion of Administration land at Edie Creek. The first Proclamation was revoked by a Proclamation dated 23.12.1927 and published in *N.G. Gaz.* of 31.12.1927, and, *semble*, the second Proclamation was superseded by a Proclamation (made under Section 3A of the *Mining Ordinance 1922-1928*, and continued in force by the *Mining Ordinance 1928-1940*) dated 26.4.1928, published in *N.G. Gaz.* of 30.4.1928, and printed on p. 3395, which declared that the Ordinance as a whole should not apply to the identical area contained in the Proclamation dated 11.10.1927 and published in *N.G. Gaz.* of 15.10.1927.

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- (c) answer any question in relation to his application or any previous or other mining activities in which the applicant has been or is engaged in the Territory.

Grant of licence.
Section 25D inserted by No. 19 of 1935, s. 5.

25D.—(1.) The Administrator may, upon the application referred to in section twenty-five A, grant to the applicant, subject to such conditions as are prescribed, a licence.

(2.) The licence may be granted in respect of the whole or any portion of the area applied for:

Provided that a licence shall not be granted in respect of an area which has been the subject of a licence within the immediately preceding six months.

(3.) The licence shall expire at the end of two years from the date of its grant.

Refund of deposit where application refused.
Inserted by No. 19 of 1935, s. 5.

25E. In the event of the Administrator refusing to grant the licence for any area acceptable to the applicant, or at all, the applicant shall be entitled to a refund of the deposit referred to in paragraph (c) of sub-section (2.) of section twenty-five A of this Ordinance.

Annual licence fee.
Section 25F inserted by No. 19 of 1935, s. 5.

25F.—(1.) An annual licence-fee, calculated at the rate of Sixpence for every hectare in the area in respect of which the licence is granted, shall be payable in advance.

(2.) The annual licence-fee less the deposit referred to in paragraph (c) of sub-section (2.) of section twenty-five A of this Ordinance shall be paid upon the grant, and before the issue, of the licence and thereafter the annual licence-fee shall be paid at the expiration of one year from the grant.

Limitation of licences.
Inserted by No. 19 of 1935, s. 5; amended by No. 30 of 1936, s. 2.

25G. A person shall not be entitled to hold more than two licences in any District at any one time.

Rights under a licence.
Inserted by No. 19 of 1935, s. 5.

25H. Subject to the provisions of Part X. of this Ordinance and to such conditions as are prescribed the holder of a licence shall have the exclusive right to prospect for gold or other minerals upon Administration land (other than alienated land as defined in section fifty-three of this Ordinance and land within the boundaries of any town, reserve, or mining tenement) within the area the subject of the licence, and for that purpose may—

- (a) enter, with his agents or servants, upon the land and there sink shafts or wells and dig trenches;
- (b) whilst engaged in *bona fide* prospecting operations, erect, on the land, his camp and such buildings and

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machinery as may be necessary, and, subject to the consent and directions of the Warden, take (both for prospecting and domestic purposes) timber from the land and take and divert water from any lake, stream or watercourse within the area; and

- (c) graze upon the land such cattle, horses and other animals as may be necessary for his subsistence and that of his agents and servants and for carrying out prospecting operations on the area.

25i. The holder of a licence shall not, without consent of the Administrator, transfer the licence.

Transfer of licence.
Inserted by No. 19 of 1935, s. 5.

25j.—(1.) All minerals obtained in the course of prospecting under a licence shall be the property of the Administration and, except for the purpose of sampling and assay and with the written consent of the Warden, shall not be removed from the land or disposed of by the holder of the licence or by any other person.

Disposal of minerals obtained in prospecting.
Section 25j inserted by No. 19 of 1935, s. 5.

Penalty: Five hundred pounds or imprisonment for twelve months, or both.

(2.) The Warden 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.

25k. The holder of a licence shall throughout the period for which the licence is granted carry on, to the satisfaction of the Administrator or an officer appointed by him, *bona fide* prospecting operations on the land in respect of which he has the exclusive right of prospecting:

Obligation of the holder of a licence.
Inserted by No. 19 of 1935, s. 5.

Provided that on the application of the holder of a licence the Administrator may by notice in the *New Guinea Gazette* suspend, for such time as the Administrator thinks fit, the obligation imposed by this section in respect of the licence.

25l. The holder of a licence shall keep full and accurate records of his prospecting operations and shall make the prescribed returns.

Record of prospecting operations.
Inserted by No. 19 of 1935, s. 5.

25m.—(1.) In the case of any breach by the holder of a licence of any of the provisions of this Ordinance or the Regulations, the Secretary for Mines, by notice in writing, may require the holder of the licence, within the time specified in the notice, to show cause to the Administrator why the licence should not be revoked.

Revocation of licence.
Section 25m inserted by No. 19 of 1935, s. 5.

(2.) Where the holder of a licence fails to show cause in accordance with the notice and the provisions of the last preceding

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sub-section, the Administrator may revoke the licence and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall, as from the date of the revocation, cease:

Provided always that the revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Ordinance or the Regulations committed by him before the revocation.

Land held under licence may not be applied for as mining lease, &c.

Section 25N inserted by No. 19 of 1935, s. 5.

25N.—(1.) A person shall not apply for a mining lease of, or take up, mark out, or occupy any claim upon, or prospect upon, land in respect of which the holder of a licence has the exclusive right of prospecting, unless he is the holder of the licence.

(2.) Subject to the provisions of sections twenty-five H and twenty-five O of this Ordinance, any person who knowingly mines on or in land in respect of which the holder of a licence has the exclusive right of prospecting shall be guilty of an offence.

Penalty: Two hundred pounds or imprisonment for six months, or both.

(3.) All minerals obtained by any person in the course of unlawfully mining on or in land in respect of which the holder of a licence has the exclusive right of prospecting, and not being a mining lease or claim of the holder of the licence, shall be the property of the Administration.

Power of licensee to take up mining lease, &c.

Inserted by No. 19 of 1935, s. 5.

25O. The holder of a licence may take up, apply for, be granted, and mine, subject to the provisions of this Ordinance and the Regulations, mining leases, claims, or water rights over the whole or any part of the land in respect of which he has the exclusive right of prospecting.

PART IV.—MINING LEASES.

Division 1.—Gold-mining Leases.

Power to grant gold-mining lease.

26. The Administrator may, if he thinks fit, subject to the provisions of this Ordinance and the Regulations, grant, for any or all of the undermentioned purposes to any person a gold-mining lease of Administration land not exempted by the next succeeding section:—

- (a) For mining for gold and for all purposes necessary to carry on effectually such mining operations in or on that land; or
- (b) For cutting and constructing water-races, drains, dams, reservoirs, tramways and roads to be used in connexion with such mining; or
- (c) For erecting any buildings or machinery to be used in connexion with such mining; or

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- (d) For pumping or raising water from any land mined for gold; or
- (e) For residence in connexion with any purpose specified in paragraph (a), (b), (c), or (d) of this section.

27. Subject to the provisions of this Ordinance, the under-mentioned lands shall be exempted from lease under the powers conferred by the last preceding section:—

Exemption of lands from gold-mining lease.

- (a) All Administration lands which consist of alluvial ground except land which in the opinion of the Administrator—
 - (i) has been already worked and abandoned; or
 - (ii) is only suitable for leasing on account of its great depth or excessive wetness, or on account of the costliness of the appliances required for its development; or
 - (iii) for any sufficient reason ought not to be exempt from lease;
- (b) All Administration land occupied by virtue of a miner's right unless the holder thereof consents in writing to the leasing of the land.

Paragraph (b) amended by No. 19 of 1935, s. 6.

* * * * *

Paragraph (c) omitted by No. 19 of 1935, s. 6.

27A.—(1.) Subject to the provisions of this Ordinance and the Regulations, the Administrator may grant a gold-mining lease of Administration land to a depth of not more than fifty feet below the surface, where only the soil below fifty feet from the surface is held under a gold-mining lease.

Power to grant leases to limited depth from surface.

Section 27A inserted by No. 19 of 1935, s. 7.

(2.) In every gold-mining lease granted under the last preceding sub-section, the Warden shall set apart and reserve such portion or portions of the leased area as he deems necessary for the working of the soil below fifty feet from the surface.

(3.) The holder of the mining lease below fifty feet from the surface may use the portion or portions of the leased area referred to in the last preceding sub-section for the purpose of and in relation to the working of his lease.

(4.) The holder of a gold-mining lease granted under sub-section (1.) of this section shall give to the lessee of the soil below fifty feet from the surface, and to the satisfaction of the Warden, access including ingress, egress, and regress into, upon, over, and out of, his gold-mining lease, to and from the soil, below his gold-mining lease, held by the lessee.

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Royalty, rent, term and area of gold-mining lease.

Sub-section (1) amended by No. 30 of 1936, s. 3 and by No. 23 of 1939, s. 4.

28.—(1.) Subject to the provisions of this Ordinance and notwithstanding anything contained in section four thereof a royalty at the rate of five per centum of the value of the gold won from a gold-mining lease shall be payable to the Administrator at the time and in the manner prescribed and in addition the yearly rent of every gold-mining lease shall be at the rate of two pounds ten shillings per hectare or at such rate per hectare as is prescribed payable in advance at the time and in the manner prescribed.

Term.

(2.) The term of a gold-mining lease shall not exceed twenty-one years, but shall be renewable for a further period of twenty-one years on such terms as are in force with regard to gold-mining leases at the time of such renewal.

Area.

(3.) The area shall be such (not exceeding twenty hectares) as is from time to time prescribed.

Reservation of portion of surface.

29. In every gold-mining lease exceeding two hectares a portion of the surface of the area not exceeding one-half of the area over and above the two hectares shall be reserved for business and residence purposes.

Covenants and conditions of gold-mining lease.

Sub-section (1) amended by No. 10 of 1930, s. 2 and by No. 30 of 1936, s. 4.

30.—(1.) Subject to the provisions of this Ordinance, every gold-mining lease shall be deemed to contain the following covenants on the part of the lessee, his executors administrators and assigns:—

- (a) A covenant to pay the royalty at the prescribed times;
- (b) A covenant to pay the rent at the prescribed times;
- (c) A covenant to use the land continuously and *bona fide* for the purposes for which it is demised and in accordance with this Ordinance and the Regulations;
- (d) A covenant to work the land demised by not less than the prescribed number of men, unless exemption or partial exemption is granted in such manner as is prescribed; and
- (e) Such other covenants not inconsistent with this Ordinance as are prescribed.

Sub-section (2) amended by No. 30 of 1936, s. 4.

(2.) Every gold-mining lease shall be deemed to contain a condition that for any breach of any of the covenants therein contained the Administrator may in his discretion either forfeit the lease or impose upon the lessee a penalty not exceeding One hundred pounds and that on non-payment of any such penalty within the time prescribed or allowed by the Administrator he may forfeit the lease.

Exemption.

31. Total or partial exemption from labour covenants of all mining leases may be granted by the Administrator on conditions to be prescribed.

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Division 2.—Mineral Leases.

32. The Administrator may, if he thinks fit, subject to the provisions of this Ordinance and the Regulations, grant, for any or all of the undermentioned purposes, to any person a mineral lease of any Administration land:—

Power to grant mineral leases.

- (a) For mining and for all purposes necessary to carry on effectually mining operations in or on that land for any mineral other than gold;
- (b) For cutting and constructing water-races, drains, dams, reservoirs, tramways and roads to be used in connexion with such mining;
- (c) For erecting any buildings and machinery to be used in connexion with such mining;
- (d) For pumping or raising water from any land mined for such mineral; or
- (e) For residence thereon in connexion with any purpose specified in paragraph (a), (b), (c), or (d) of this section.

33. Total or partial exemption from labour covenants of all mineral leases may be granted by the Administrator on the prescribed conditions.

Exemption.

34. The undermentioned lands shall be exempted from lease under the powers conferred by section thirty-two of this Ordinance:—

Exemption of lands from mineral leases.

- (a) All Administration lands which consist of alluvial ground, except such land as in the opinion of the Administrator—
 - (i) has been already worked and abandoned; or
 - (ii) is only suitable for leasing on account of its great depth or excessive wetness, or on account of the costliness of the appliances required for its development; or
 - (iii) for any sufficient reason ought not to be exempt from lease; and
- (b) All Administration lands occupied by virtue of a miner's right unless the holder thereof consents in writing to the leasing of the land:

Provided that any residence or business area may be converted into a mineral lease if the person applying for that lease first pays compensation to the holder of the area for any improvements thereon

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made by him or any prior holder unless the lease is applied for under the provisions of Part V. of this Ordinance.

Rent, term
and area of
mineral lease.

35.—(1.) The yearly rent of every mineral lease shall be at the rate of Twenty-five shillings per hectare or at such rate as is prescribed payable in advance at the time and in the manner prescribed.

(2.) The term of a mineral lease shall not exceed twenty-one years and shall be renewable for a further term of twenty-one years on the same terms as are in force with regard to mineral leases at the time of the renewal.

(3.) The area of a mineral lease shall not exceed one hundred hectares, or such area as is prescribed.

Covenants and
conditions of
mineral leases.
Section 36
amended by
No. 10 of 1930,
s. 3 and by
No. 30 of 1936,
s. 5.

36. Subject to the provisions of this Ordinance, every mineral lease shall be granted for the working of some mineral or combination of minerals specified therein, and every mineral lease shall be deemed to contain the following reservation, covenants and conditions:—

- (a) A reservation of all gold found in the land comprised in the lease;
- (b) A covenant by the lessee, his executors, administrators and assigns to pay rent at the prescribed times;
- (c) A covenant on the part of the lessee, his executors, administrators and assigns to use the land continuously and *bona fide* for the purposes for which it is demised and in accordance with the Regulations;
- (d) A covenant on the part of the lessee, his executors, administrators and assigns not to assign, underlet or part with the possession of the land demised or any part thereof without the previous consent of the Administrator;
- (e) A covenant that there shall be employed on the lease one man for every thirty-two hectares or fraction of thirty-two hectares unless exemption or partial exemption has been granted;
- (f) Such other covenants not inconsistent with this Ordinance as are prescribed; and
- (g) A condition that for any breach of any of the covenants contained in the lease the Administrator may in his discretion either forfeit the lease or impose upon the lessee a penalty not exceeding One hundred pounds, and that on non-payment of any such penalty within the time prescribed or allowed by the Administrator he may forfeit the lease.

Paragraph (e)
amended by
No. 5 of 1932,
s. 3.

Mining Ordinance 1928-1940.

37. When gold is found associated or combined with any other mineral in land held under a mineral lease, and the nature of the mining operations is such as to lead to the extraction of that gold, the lessee shall pay to the Administrator at the time and in the manner prescribed a royalty of five per centum of the value of the gold extracted.

Royalty payable for gold found in combination with other metals.
Amended by No. 23 of 1939, s. 5.

38.—(1.) When gold is found in any land held under a mineral lease otherwise than in association or combination with the mineral specified therein, the land may, for the purpose of mining for gold, be dealt with, notwithstanding the mineral lease, under the provisions of this Ordinance relating to mining for gold.

Provisions applicable when gold is found on mineral leasehold.

(2.) Any person mining thereon for gold shall not interfere with the workings of the lessee in actual use, and shall not be entitled to acquire any mining tenement in or upon any mineral lease except at a distance beyond two hundred yards from the workings, or from the crushing, smelting or any other works used for the reduction or treatment of the minerals specified in such lease. In the event of any dispute as to what workings are in actual use, or as to what works are used for crushing, smelting or otherwise used for the reduction or treatment of such mineral, the Warden within whose jurisdiction such lease is situate shall decide the matter, and his decision shall be final between the parties.

Warden's decision final.

(3.) If the lessee mines for gold found otherwise than in such association or combination not being authorized to do so by a miner's right or gold-mining lease, the lease shall be liable to forfeiture.

39.—(1.) If any lessee desires to mine for any mineral other than that specified in the lease, he shall apply to the Administrator for permission to do so, and the Administrator may grant permission, and may alter or vary the conditions of the lease so as to make them applicable to mining for that other mineral in accordance with this Ordinance and the Regulations:

Provisions applicable when lessee desires to work other minerals.

Provided that permission shall not be granted under this section for mining for mineral oil or coal.

(2.) If a lessee mines for any such other mineral without obtaining permission under this section, he shall be liable to a penalty not exceeding Five pounds for every day on which he shall so offend.

Division 3.—Provisions applicable to Gold-mining Leases and Mineral Leases.

40. In this division the expression "mining lease" includes a gold-mining lease and a mineral lease.

Definition.

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Effect of application for mining lease upon land held by applicant under miner's right.

40A.⁽¹⁰⁾ When application is made under the provisions of this Ordinance for a mining lease of any land a part or the whole of which is held by the applicant under a miner's right, the interest of the applicant shall in no wise be prejudiced by the application, nor by its refusal, abandonment or failure; and if the lease is granted, the interest of the applicant held under the miner's right shall merge in the interest held by him under the lease.

Provisions relating to applications for mining leases.

41.—(1.) Every application for a mining lease shall be made in the prescribed form, and shall be accompanied by the prescribed survey-fee and the first year's rent or prescribed portion thereof.

(2.) Applications for mining leases by persons who have complied with the Regulations shall take priority according to the order in which they are lodged at the Warden's office.

(3.) If more than one application for a lease of the same land or any part thereof is lodged at the same time, the applications shall take priority according to the order in which the applicants marked the land out under the Regulations.

(4.) If the application of any person is refused, he shall be informed of the reasons for the refusal.

Protection of ground applied for as mining leasehold.

42. The entry upon, occupation of, or interference with, any ground of which a mining lease has been applied for by any person who has not, prior to the application, been in the lawful occupation of the ground, shall, at any time after the lodging of the application, and until and unless the application is refused, or the entry, occupation or interference authorized by the Administrator, be deemed to be a trespass or encroachment. The applicant for the ground may proceed before any Warden's Court for trespass or encroachment and for any damages in respect thereof and for the recovery of any gold or other mineral taken by the first-mentioned person from the ground, or for the value thereof:

Provided always that no such applicant shall recover or succeed under this section unless he proves, to the satisfaction of the Warden's Court, that he has complied with the Regulations in force and applicable for the time being to the class of lease applied for so far as those Regulations are, at the time of the entry, occupation or interference, capable of being complied with.

Power to amend description of lands comprised in lease.

43.—(1.) If, after the issue of any mining lease, it is found on survey or by mutual consent of the parties interested that the description of the lands therein contained does not describe with sufficient accuracy the lands intended to be therein comprised, the Administrator may by proclamation describe the land intended to have been comprised in such lease.

(10) This is an original section of the *Mining Ordinance 1928* (No. 18 of 1928).

Mining Ordinance 1928-1940.

(2.) The land described in any proclamation under this section shall be taken to be the land described in the lease to which the proclamation refers, and to have been leased thereby.

44. If the Administrator is satisfied that greater facilities for the working of two or more contiguous mining leases would be insured by the union of those leases, he may authorize the union, subject to the following conditions:—

Consolidation
of mining
leases.

- (a) The application shall be made for union by a majority in number and value of the persons registered for the time being as holders of each lease;
- (b) The leases may be surrendered and a new lease embracing the aggregate area of the surrendered leases issued:

Provided that in the case of gold-mining leases no greater area than one hundred hectares shall be comprised in any such united lease:

Proviso
amended by
No. 5 of 1932,
s. 4.

Provided further that in the case of mineral leases no greater area than three hundred hectares shall be comprised in such united lease:

Proviso
amended by
No. 5 of 1932,
s. 4.

Provided also that, instead of surrendering the leases, the applicants may have their leases indorsed by the Administrator sanctioning a union thereof, whereupon all the conditions applicable in case of surrender and issue of new lease shall apply to those leases the union whereof has been sanctioned and the conditions as to working contained in the several surrendered leases in the aggregate shall be indorsed on those leases;

- (c) The conditions as to working contained in the several surrendered leases in the aggregate shall be embodied and contained in the new lease;
- (d) The general provisions and conditions and the power of resumption and re-entry on the part of the Administrator for non-payment of rent and breach of covenant shall be the same as those prescribed for the individual leases;
- (e) When the unexpired terms of the surrendered leases are not the same, the new lease shall be for the residue of that one of such terms which will first terminate;
- (f) When the conditions or provisions of the surrendered leases are not identical, the conditions and provisions of the new lease shall be such of the conditions and provisions of the surrendered leases or any of them as the Administrator determines; and

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- (g) For the purpose of this section mining leases shall be deemed to be contiguous, and may be united in the manner and subject to the conditions set out in this section, if they are wholly or partially separated only by other land held otherwise than on lease from the Administrator or by any road, street, water or water-course and whether such road, street, water or water-course is comprised in a mining lease or not.

Special areas.
Section 44A
inserted by
No. 10 of 1930,
s. 4.

Sub-section (1)
amended by
No. 29 of 1931,
s. 4.

Sub-section (2)
amended by
No. 29 of 1931,
s. 4; substituted
by No. 19 of
1935, s. 8.

Sub-section
(2A) inserted
by No. 19 of
1935, s. 8.

44A.—(1.) Any person, firm or company holding mining tenements under this Ordinance or the repealed Ordinance of an area of not less than eight hundred hectares may apply to the Minister that the area comprised in such tenements be declared a "Special Area".

(2.) The Minister may, if he is satisfied that the mining tenements in respect of which application has been made under the last preceding sub-section can be adequately developed only by mining operations on a large scale basis, declare the area comprising the tenements, or any of them, and being not less than eight hundred hectares in extent, to be a "Special Area".

(2A.) Upon a declaration in accordance with the provisions of the last preceding sub-section, any obligation requiring the employment of a minimum number of employees or a minimum quantity or value of machinery and arising either under the provisions of any covenant or Ordinance or regulation affecting mining tenements shall cease to apply to any gold-mining lease, mineral lease, dredging or sluicing lease, and any dredging or sluicing claim, comprised within the area defined in the declaration.

(3.) The holder of any mining tenements, declared to be a "Special Area", shall expend in each year not less than Seven pounds and ten shillings per hectare in mining operations or developmental work on such "Special Area" or for such other purpose incidental thereto as is approved by the Minister. Any such holder shall, as and when required, produce evidence of such expenditure, verified by statutory declaration, to the Administrator for transmission to the Minister.

(4.) Where the holder of any mining tenements declared to be a "Special Area" fails to expend moneys in accordance with the last preceding sub-section, the Minister may cancel the declaration of the mining tenements as a "Special Area".

(4A.) The Minister may, upon application by the holder of any mining tenements declared to be a "Special Area"—

- (a) cancel the declaration of the mining tenements as a "Special Area"; or

Sub-section
(4A) inserted
by No. 1 of
1933, s. 2;
substituted by
No. 19 of 1935,
s. 8.

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(b) vary the declaration of the mining tenements as a "Special Area"—

- (i) by adding to the declaration any other mining tenement under this Ordinance or the repealed Ordinance held at the date of the declaration or subsequently acquired by the holder of the mining tenements included in the declaration; or
- (ii) by excising from the declaration any mining tenement:

Provided that in no case shall the area of a "Special Area" be reduced to less than eight hundred hectares.

(5.) Mining tenements comprising a "Special Area" shall, except as provided by this section, be subject to the provisions of this Ordinance and the Regulations thereunder or the repealed Ordinance and the Regulations thereunder, as the case may be, under which they were held at the date upon which they were declared by the Minister to be a "Special Area".

Sub-section (5)
amended by
No. 29 of 1931,
s. 4.

45. Subject to the provisions of this Ordinance and the Regulations, a mining lease or an application for a mining lease or any interest therein may be transferred, assigned, sublet or encumbered in manner prescribed on payment of the prescribed fee.

Transfer of
mining leases.

45A.—(1.) Notwithstanding anything contained in this Ordinance or in the repealed Ordinance, a lessee under a dredging or sluicing lease held under the repealed Ordinance may make application to the Administrator for permission to transfer any portion of his lease or any interest therein.

Transfer of
portion of
dredging or
sluicing leases
under repealed
Ordinance.

Section 45A
inserted by
No. 5 of 1932,
s. 5.

Sub-section (1)
amended by
No. 10 of 1932,
s. 2.

(2.) Any such lessee shall submit with his application a plan of the boundaries of the portion of the lease in respect of which the application is made, together with survey fees at the rate of Twenty pounds per kilometre in respect of boundaries of such portion other than the boundaries of the original lease.

(3.) The Administrator may, if he thinks fit, grant any such application and on payment of a fee of Three pounds issue a fresh lease for the portion in respect of which permission to transfer has been given and such lease shall be subject to the terms and conditions contained therein and to the provisions of the repealed Ordinance and the Regulations thereunder.

46. Any mining lease may be surrendered at any time if at the time of the surrender the conditions thereof on the part of the lessee have been fulfilled as far as the time which has elapsed

Surrender of
mining leases.

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permits, and that all payments due in respect thereof up to date have been made.

Conditional
surrender of
mining leases.
Section 46A
inserted by
No. 29 of 1931,
s. 5.

46A.⁽¹¹⁾—(1.) Notwithstanding anything contained in this Ordinance, an applicant for, or lessee under, a mining lease or leases held under this Ordinance or the repealed Ordinance may apply through the Warden for the consent of the Administrator to surrender, wholly or in part, his lease or leases or any rights thereunder on condition that a new lease or leases of the land comprised in the whole or part of the lease or leases in respect of which an application under this section to surrender is made be granted in lieu thereof.

(2.) The Warden may require any such applicant to deposit fresh survey fees:

Provided that where fresh survey fees are so required, any survey fee paid in respect of any lease surrendered under this section but not surveyed at date of surrender shall be refunded.

(3.) The Warden shall submit any such application to the Administrator with such report and recommendation thereon as he thinks fit.

(4.) The Administrator may grant or refuse, either wholly or in part, any such application.

(5.) Until any such application to surrender is granted, the applicant shall fulfil the terms and conditions of the lease or application for a mining lease in respect of which application to surrender is made.

(6.) When assessing the rent payable in respect of the first year of any lease granted under this section, the Administrator shall take into account any rent paid in respect of any mining lease which has been surrendered and in lieu of which the lease under this section has been granted.

(7.) Where in the opinion of the applicant it is necessary or convenient for any land not comprised in the whole or part of the lease or leases in respect of which the application is made to be included in the lease or leases applied for in lieu of those surrendered, the applicant may include such land in his application but the application in respect of such land shall be dealt with as an application for a mining lease under this Ordinance.

(8.) When any application is made in accordance with this section, the interest of the applicant for, or lessee of, the mining lease in respect of which the application is made shall in no wise be prejudiced by the application, nor by its refusal, abandonment or failure.

(11) See Section 5(2) and (3) of the *Mining Ordinance* 1931, printed on p. 3293.

Mining Ordinance 1928-1940.

47.—(1.) In case any mining lease granted under the authority of this Ordinance or the Regulations or of any Ordinance authorizing the granting of leases for mining purposes is, or is liable to be, forfeited or determined by any breach of condition or otherwise, or in case the term thereby granted has expired, possession of the land demised shall be taken on behalf of the Administrator immediately and without suit or process of any kind by posting a notice in accordance with the prescribed form outside the Warden's Office.

Recovery of mining leases.
Sub-section (1) amended by No. 30 of 1936, s. 6.

(2.) A certificate purporting to be signed by the Secretary for Mines or a Warden that the notice referred to in the last preceding sub-section has been duly posted shall be sufficient proof in every court and for all purposes that such notice has been duly posted and of the due taking possession of the land.

Sub-section (2) substituted by No. 30 of 1936, s. 6.

47A. If during the term of any lease of Administration land under this Ordinance or the repealed Ordinance, any part of the land comprised in the lease is required for any public purpose, the Administrator may, upon one month's notice in writing to the lessee, cancel the lease so far as it relates to any right to the surface, and the depth of fifty feet below the surface of the land specified in the notice and thereupon and without any compensation payable by the Administration the land shall be deemed to have been entered upon and taken possession of by the Administrator.

Area may be resumed for public purpose.
Inserted by No. 5 of 1932, s. 6.

* * * * *

Section 48 repealed by No. 19 of 1935, s. 9.

49.—(1.) Where any land is held as a dredging or sluicing lease granted to a depth of 50 feet below the surface of the soil under Part IV. of the repealed Ordinance, any person may, subject to this Ordinance, apply for a mining lease of the ground comprised in the area below the dredging or sluicing lease, and the holder of the dredging or sluicing lease shall give to the mining leaseholder reasonable access to the satisfaction of the Warden including ingress, egress and regress into, upon, over and out of the dredging or sluicing lease through the surface of the soil to a depth of 50 feet and in the event of its being necessary in order to carry out the provisions of this section for the dredging or sluicing leaseholder to set apart for the purpose any part of his dredging or sluicing lease not wholly worked out he shall be paid by the applicant such compensation as is agreed upon between the parties, and in the event of their not being able to agree, the Warden shall after due inquiry and the hearing of evidence assess the compensation at a sum which to him shall seem reasonable.

Mining lease of ground below dredging or sluicing lease.
Sub-section (1) amended by No. 19 of 1935, s. 10.

(2.) The sum so agreed upon or assessed shall be recoverable as a debt in any court of competent jurisdiction.

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Sub-sections
(3) and (4)
omitted by
No. 19 of 1935,
s. 10.

* * * * *

Merger of
dredging or
sluicing lease
in gold-mining
lease.

Section 49A
inserted by
No. 19 of 1935,
s. 11.

49A.—(1.) Subject to the provisions of this Ordinance and the Regulations, the holder of a dredging or sluicing lease may apply for a gold-mining lease of any land comprised in the dredging or sluicing lease and, if the gold-mining lease is granted, the interest of the applicant held under the dredging or sluicing lease shall merge in the interest held by him under the gold-mining lease.

(2.) Notwithstanding the provisions of this Ordinance and the Regulations, where any application is made for a gold-mining lease under the provisions of the last preceding sub-section, the survey fee shall be at the rate of Twenty pounds per kilometre in respect of the part of the boundary line of the gold-mining lease which is not common to both the dredging or sluicing lease and the gold-mining lease.

(3.) When assessing rent payable in respect of the first year of the gold-mining lease, the Administrator shall take into account rent for the whole or portion of the year paid under the dredging or sluicing lease.

PART V.—MINING ON RESERVES, RESIDENCE AREAS AND
BUSINESS AREAS.

Power to grant
mining leases
of land in
reserves and
business areas.

50. Notwithstanding anything contained in this Ordinance, a mining lease may be granted under this Ordinance of any land comprised in a reserve, residence area or business area, and a lease of any such land may be applied for in accordance with the provisions of this Ordinance and of the Regulations, subject to the following conditions:—

- (a) The lease shall, in respect of any land comprised in a residence area or business area, be deemed to be of the mines under the land only, and not of the surface of the land, but the surface may be resumed under such conditions as are prescribed by this Ordinance or the Regulations;
- (b) The lessee shall not be entitled to disturb the surface of a reserve which is a street or road or to do any act which will affect or disturb the beneficial enjoyment of the surface;
- (c) In the case of a reserve which is not a street or road the lessee shall not be entitled to disturb the surface of the reserve or to do any act which will affect or disturb the beneficial enjoyment of the surface except

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in either case with the permission of the Warden and then only upon such part of the reserve and under such conditions as he determines;

- (d) If the lessee does any injury to the surface or does any act affecting or disturbing the beneficial enjoyment of the surface he shall make compensation to the persons entitled to the surface or charged with the care and management thereof for all such damage;
- (e) Any claim for compensation shall be made within three months after the right to make the claim has accrued.

51.—(1.) The Administrator may, by notice⁽¹²⁾ in the *New Guinea Gazette*, declare that the whole or any part of the land comprised in a reserve and not being a street or road shall be open to be taken up as claims under miners' rights.

Reserve taken up as claims.

(2.) On and after the day appointed in that behalf by the notice the land shall be open to be so taken up accordingly.

(3.) In any such case the conditions of the last preceding section relating to leases shall so far as they are applicable apply to any claim so taken up, and for that purpose shall be read as if the words "claim" and "claimholder" were used therein instead of the words "lease" and "lessee" respectively.

52. Any damages sustained by any person in respect of injury done to the surface of any reserve, residence area or business area, and which any other person is liable to pay, may be recovered in the Warden's Court.

Recovery of damages.

PART VA.—MINING ON LAND TO WHICH THIS ORDINANCE OR THE REPEALED ORDINANCE HAS BEEN DECLARED NOT TO APPLY.

Part Va. inserted by No. 29 of 1931, s. 6.

52A.—(1.) Subject to this Part, the Administrator may, by notice⁽¹³⁾ in the *New Guinea Gazette*, declare that this Ordinance or the repealed Ordinance shall not apply to the whole or any portion of any Administration land and may direct that any such land shall be divided into lots not exceeding eighteen ares in area.

Power to declare that holder of miner's right may apply for land subject to this Part.

(2.) Notwithstanding the provisions of this Ordinance, the Administrator may, by notice⁽¹³⁾ in the *New Guinea Gazette*, declare that all or any of the lots referred to in the last preceding subsection may be applied for, for mining purposes, by the holder of a miner's right.

Section 52A inserted by No. 29 of 1931, s. 6.

(12) No notice has been published in *N.G. Gaz.*

(13) A notice made pursuant to Section 52A, dated 20.10.1932 and published in *N.G. Gaz.* of 31.10.1932, is printed on p. 3436.

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(3.) A description of each of the lots which may be applied for under the last preceding sub-section shall be shown in a Schedule to the notice.

Application for permit.

Inserted by No. 29 of 1931, s. 6; amended by No. 5 of 1932, s. 7.

52B. Within thirty days after the publication of a notice under the last preceding section, a holder of a miner's right may lodge with the Warden an application for a permit to occupy, for mining purposes, any lot described in the Schedule to the notice.

Power to grant permit.

Section 52c inserted by No. 29 of 1931, s. 6.

52c.—(1.) Subject to the provisions of this section, the Warden may grant to an applicant under the last preceding section a permit in the prescribed form to occupy a lot for mining purposes.

(2.) If not more than one application under the last preceding section is received by the Warden for any lot, he shall grant a permit for that lot to the applicant.

(3.) If more than one application under the last preceding section is received by the Warden for any lot, he shall direct that the applicant to whom a permit shall be granted shall be decided by ballot in the prescribed manner.

Conditions under which land held.

Section 52b inserted by No. 29 of 1931, s. 6.

52d.—(1.) The land described in a permit shall be deemed to be land taken possession of and occupied under a miner's right, and, subject to the provisions of this Part, this Ordinance and the Regulations thereunder shall apply to the land.

(2.) Upon the grant of a permit to occupy a lot for mining purposes, the Warden shall register, as prescribed, the holder of the permit as the holder of a claim comprising the land described in the permit.

(3.) The labour conditions prescribed by the Regulations shall not apply to land held under a permit for a period of forty days after the grant of the permit.

Part VI. substituted by No. 19 of 1935, s. 12.

PART VI.—MINING ON ALIENATED LANDS.

Definitions.

Section 53 amended by No. 29 of 1931, s. 8; substituted by No. 19 of 1935, s. 12.

53. In this Part, unless the contrary intention appears—

“Authority” means an authority to enter and prospect upon alienated land granted under this Part;

“Improved Land” includes the site or curtilage of any building, or any garden, lawn, yard, nursery for trees, orchard, vineyard, cultivated field (not being mere pasture land or land used for the growing of coconut palms), sports ground, recreation ground, rifle range, reservoir, natural or artificial storage or accumulation

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of water, spring, dam, bore, artesian well, cemetery, burial place, or place of worship, or any land on which a railway, tramway, bridge, or culvert is constructed;

“Alienated Land” means land which is held by any person for an estate in fee simple, or which is lawfully contracted to be alienated to him for an estate in fee simple under the *Land Ordinance 1922-1935*,⁽¹⁴⁾ or which is held under any lease to the reversion of which the Commonwealth is entitled, or any land in respect of which the Administrator has granted, or approved of the granting of, a lease under the provisions of the *Land Ordinance 1922-1935*,⁽¹⁴⁾ but does not include any native land;

“Occupier” means the person in actual occupation of any alienated land; or, if there is no person in actual occupation, the person entitled to possession;

“Owner” in relation to alienated land includes the person to whom any land has been leased, or whose application for a lease has been granted, by the Administrator under the provisions of the *Land Ordinance 1922-1935*.⁽¹⁴⁾

54. The Administrator may from time to time by proclamation⁽¹⁵⁾ exempt from the operation of this Part, for such periods as he thinks fit, any specified alienated land or all alienated lands in any specified area.

Power of Administrator to exempt from operation of this Part.
Substituted by No. 19 of 1935, s. 12.

55. Any person who enters or remains upon any alienated land for mining purposes except by virtue of an authority or by virtue of the grant or registration of a mining tenement shall be guilty of an offence.

Unlawful entry.
Amended by No. 29 of 1931, s. 8; substituted by No. 19 of 1935, s. 12.

Penalty: Fifty pounds.

56.—(1.) Any holder of a miner's right may apply to the Warden for an authority to enter and prospect upon alienated land.

Application for an authority to enter.
Section 56 substituted by No. 19 of 1935, s. 12.

(2.) The application shall be made in the manner and form prescribed and shall be in relation to an area not exceeding two hundred and fifty hectares which shall be defined in the application.

(3.) Where there are more applications than one relating to the same area the applications shall take priority according to the order in which they are lodged at the Warden's office.

(14) Now the *Land Ordinance 1922-1941*.

(15) No proclamation has been published in *N.G. Gaz.*

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Grant of an authority.
Section 57 substituted by No. 19 of 1935, s. 12.

57.—(1.) The Warden, upon being satisfied that an application made in accordance with the provisions of the last preceding section is *bona fide*, may grant and issue an authority in accordance with the prescribed form, limited to such period, not exceeding thirty days, as he thinks fit.

(2.) The authority granted may be in relation to any number of persons not exceeding five.

(3.) Before the issue of the authority the Warden shall fix a sum of money not exceeding Five pounds, and require the sum to be paid to him, by way of security for the compensation of the owner and occupier of the alienated land, for any damage that might be caused by the persons in relation to whom the authority is granted.

Right conferred by an authority.
Section 58 substituted by No. 19 of 1935, s. 12.

58.—(1.) An authority shall confer upon the person or persons named therein the right to enter upon the alienated land described in the authority and there to prospect for gold or other mineral.

(2.) During the currency of the authority no other authority shall be granted for the same alienated land.

Appeal where application for authority is refused.
Substituted by No. 19 of 1935, s. 12.

59. In any case in which the Warden refuses to grant an authority the applicant may appeal to the Administrator who may thereupon either order the Warden to grant the authority, or inform the applicant that his appeal has been disallowed.

Authority to be produced on demand.
Inserted by No. 19 of 1935, s. 12.

59A. The holder of an authority shall, upon the demand of the owner or occupier of the alienated land, or the agent of either, produce the authority to him.

Compensation for damage during currency of authority.
Section 59a inserted by No. 19 of 1935, s. 12.

59B.—(1.) The money paid to the Warden under sub-section (3.) of section fifty-seven of this Ordinance shall, at the expiration of the authority in respect of which it was paid, be disposed of in the manner provided in this section.

(2.) Where as the result of any entry, or prospecting, upon land under an authority—

- (a) no damage is done to the alienated land, the money shall be repaid to the holder of the authority; or
- (b) some damage is done to the alienated land, the whole or part of the money shall be apportioned between the owner and the occupier of the alienated land according to the damage sustained by them and, in the event of any balance remaining in his hands, the Warden shall return the balance to the holder of the authority.

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59c.—(1.) Any holder of a miner's right may, in the manner and form prescribed, make an application for the grant or registration of a mining tenement situate on alienated land.

Applications for mining tenements.

Section 59c inserted by No. 19 of 1935, s. 12.

(2.) The applicant shall in his application state and describe the area of surface, if any, of the alienated land in respect of which he applies and also state the purposes for which he requires the area.

(3.) Where, for the purpose of affording access to and from the proposed mining tenement and the nearest practicable point of a street or road, a right of way over or through any adjoining or other land is applied for, the right of way shall be described in the application.

(4.) In any case in which a right of way is applied for over or through any improved alienated land the consent of the owner of the improved alienated land shall first be obtained in writing and shall accompany the application.

59d. Notice of the application referred to in the last preceding section shall be given, in the manner and form prescribed, to the owner and occupier of the alienated land in respect of which the application is made.

Notice of application.

Inserted by No. 19 of 1935, s. 12.

59e. Where the applicant for a mining tenement does not apply for any area of surface, it shall not be necessary for him to mark out, on the surface, the mining tenement the subject of the application.

Where surface not involved, marking out unnecessary.

Inserted by No. 19 of 1935, s. 12.

59f. Where the holder of a mining tenement under this Part is entitled to occupy a portion only of the surface of the alienated land the subject of the mining tenement, he may at any time apply for an extension of the surface area and the application for the extension shall be subject to the same provisions as the application for the mining tenement.

Application for extension of area.

Inserted by No. 19 of 1935, s. 12.

59g. Where the application referred to in section fifty-nine c of this Ordinance is made by any person other than the owner of the alienated land and—

Conditions affecting applicants other than owners.

Section 59c inserted by No. 19 of 1935, s. 12.

(a) no portion of the surface of the alienated land is applied for; and

(b) the consent of the owner has not been obtained,

the application shall not be granted until the applicant satisfies the Warden that he possesses—

(c) adjoining the alienated land the subject of the application, a mining tenement occupied for the purpose of mining for gold or other mineral; or

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- (d) a mining tenement with such rights of way through intermediate lands as will enable him to mine in the alienated land the subject of the application.

Owner of alienated land may apply for mining tenement.

Inserted by No. 19 of 1935, s. 12.

59H. The owner of any alienated land may apply for a mining tenement comprising the alienated land or so much of it as is not already the subject of a mining tenement.

Grant or registration of mining tenements.

Section 59i inserted by No. 19 of 1935, s. 12.

59I. Subject to this Ordinance and the Regulations—

- (a) after an application made in accordance with the provisions of this Part, a mining tenement in respect of alienated land may be granted or registered; and
- (b) two or more parcels of alienated land which adjoin each other may be included in one mining tenement under this Part.

Exemption of certain alienated land.

Section 59j inserted by No. 19 of 1935, s. 12.

59J. No mining tenement shall be granted or registered in respect of alienated land if the alienated land is—

- (a) improved alienated land;
- (b) within a surface distance of one hundred metres from any dwelling or any natural or artificial lake or pond or any dam or reservoir; or
- (c) within the boundaries of any town,

unless in each of these cases—

- (d) the consent in writing of the owner of the alienated land has been first obtained; or
- (e) the grant or registration is limited to such depth from the lowest level of the surface of the alienated land as the Warden's Court may in any case decide:

Provided that where alienated land is being mined and the Warden's Court determines that the whole, or a specified part, of the alienated land is, or is likely to be, required for the purpose of mining operations in connexion with the mine on the alienated land, no other mining tenement except such as may be applied for by the owner of the mine shall be granted or registered in respect of the alienated land or specified part, as the case may be.

Rights conferred by grant or registration of mining tenement.

Section 59k inserted by No. 19 of 1935, s. 12.

59K. The grant or registration of a mining tenement for the purpose of mining for gold or other mineral on alienated land shall confer upon the owner of the mining tenement—

- (a) where the mining tenement comprises an area of surface—
- (i) the right to mine on or under so much of the surface or extended surface as is stated and

- described in the lease or certificate of registration, as the case may be; and
- (ii) the right to mine under the remainder, if any, of the mining tenement at such depth from the lowest level of the surface as the Warden's Court may in any case decide, which depth shall be stated in the lease or certificate of registration, as the case may be; and
 - (iii) the right of ingress and egress to and from the mining tenement by a right of way to be stated and described in the lease or certificate of registration, as the case may be; or
- (b) where the mining tenement does not comprise any area of surface, the right to mine under the whole of the mining tenement at such depth from the lowest level of the surface above the mining tenement as the Warden's Court may in in^(15A) any case decide, which depth shall be stated in the lease or certificate of registration, as the case may be.

59L.—(1.) Compensation in respect of any mining tenement granted or registered under this Part shall be payable for—

- (a) deprivation of the possession of the surface or any part of the surface; and
- (b) damage to the surface or any part of the surface and to any improvements on the surface, which may arise from the carrying on of mining operations on or under the surface; and
- (c) severance of the alienated land from other land of the owner or occupier; and
- (d) surface rights of way; and
- (e) all consequential damages:

Compensation
for damage.
Section 59L
inserted by
No. 19 of 1935,
s. 12.

Provided that any gold or other mineral known or supposed to be on or under the alienated land the subject of the mining tenement shall not be a matter for compensation:

Provided further that where the mining tenement does not comprise any portion of the surface of the alienated land no compensation shall be payable for the right to occupy and work the mining tenement.

(2.) In any determination of the amount of compensation by the Warden's Court under the provisions of this Part, consideration shall be given to the amount of compensation which the owner

(15A.) The words "in in" appeared in the original Ordinance. They have now been omitted and the word "in" inserted in their stead by the First Schedule of the *Ordinances Reprint and Revision Ordinance 1947* of the Territory of Papua-New Guinea.

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and occupier or either of them have, or has, already received for or in respect of the damage which is the subject of the determination and the amount already so received shall be deducted from the amount which would otherwise be payable to the owner or occupier by way of compensation.

Compensation to be paid or agreed upon before mining.
Section 59M inserted by No. 19 of 1935, s. 12.

59M.—(1.) No rights shall be conferred by the grant or registration of a mining tenement under the provisions of this Part unless and until—

- (a) the amount of compensation payable has been determined in the manner prescribed and has been paid or tendered to the persons severally entitled to the compensation; or
- (b) an agreement in writing as to the payment of compensation has been made between the owner of the mining tenement and the persons severally entitled to the compensation.

(2.) Where—

- (a) any doubt exists as to what persons are entitled to the compensation; or
- (b) the persons, or any of them, entitled to the compensation cannot be found,

the payment referred to in paragraph (a) of the last preceding sub-section may be made to the Administrator in trust for the persons referred to.

(3.) The payment, tender or agreement referred to in this section shall be certified—

- (a) by an officer authorized by the Administrator, on the lease; or
- (b) by the Warden, on the certificate of registration, issued in relation to the mining tenement.

(4.) Where no compensation is payable the fact shall be certified, on the lease or the certificate of registration, by the officer authorized or by the Warden.

Compensation to be determined by agreement or Warden's Court.
Section 59N inserted by No. 19 of 1935, s. 12.

59N.—(1.) The amount of compensation payable under the provisions of this Part may be determined—

- (a) by an agreement in writing—
 - (i) made between the applicant for the mining tenement and the persons severally entitled to the compensation;
 - (ii) signed by the parties or their agents; and
 - (iii) filed at the Warden's Office; or

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- (b) upon failure to make, within the prescribed time, such an agreement as is referred to in the last preceding paragraph, by the Warden's Court.

(2.) A determination by the Warden's Court under the provisions of this section shall be upon the plaint, in that behalf, of the applicant for the mining tenement, or of any of the persons entitled to compensation.

(3.) The plaint referred to in the last preceding sub-section shall be filed in the Warden's Office and may, where assessors have been appointed under the provisions of this Ordinance relating to assessors, require the Warden's Court to be constituted by the Warden sitting with assessors.

59o. Nothing contained in this Part shall be construed to take away or prejudice any right of action which any person may have for any loss or damage sustained by him by reason of any mining operations upon alienated land, other than for loss or damage for which compensation is payable under section fifty-nine L of this Ordinance.

Other rights of action not affected.

Inserted by No. 19 of 1935, s. 12.

59p. Any holder of a miner's right—

- (a) being the owner of the alienated land and holding the consent, in writing, of the occupier of the alienated land; or
- (b) being the occupier of the alienated land and holding the consent, in writing, of the owner of the alienated land; or
- (c) being neither the owner nor the occupier of the alienated land but holding the consent, in writing, of the owner and occupier of the alienated land,

Cases in which alienated land treated as not alienated.

Section 59p inserted by No. 19 of 1935, s. 12.

may, subject to the provisions of this Ordinance other than those of this Part, enter upon, prospect, mine and work the alienated land as if it were not alienated land.

59q. Except as otherwise provided by this Part, the provisions of this Ordinance and the Regulations shall apply to mining tenements situate upon alienated land; and all the powers, authority and jurisdiction of the Warden and of the Warden's Court, and of any other court having jurisdiction under this and any other Ordinance, shall extend and apply to alienated land and to mining on or under alienated land:

Application of general provisions.

Inserted by No. 19 of 1935, s. 12.

Provided that—

- (a) No prospecting area shall be registered, no business licence be issued, no licence for garden area be

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granted, and no miner's homestead lease be granted, in respect of any alienated land.

- (b) A mining tenement other than a gold-mining lease or mineral lease or claim shall be registered, granted or held in respect of alienated land only under the following conditions:—
- (i) the mining tenement shall be occupied and used solely in connexion with a gold-mining lease or mineral lease or claim situate on the alienated land; and
 - (ii) the alienated land shall exceed five hundred hectares in area.
- (c) An owner of a mining tenement shall not, without the consent of the owner and occupier of the alienated land on which the mining tenement is situate, be entitled to use water artificially conserved by the owner or occupier of the alienated land, or to fell trees, strip bark or cut timber on the alienated land.
- (d) An owner of a mining tenement shall not have the right to impound any stock belonging to, or being in the custody or under the control of, the owner or occupier of alienated land comprising or adjoining the mining tenement or to disturb or molest the stock in any way whatsoever or to prevent the stock from depasturing on or over the mining tenement unless the land comprised in the mining tenement is enclosed by a substantial fence.

60. There shall be payable to the Administrator at the time and in the manner prescribed in respect of all gold won from alienated land a royalty of five per centum of the value of the gold won.

Royalty to be paid.
Substituted by No. 19 of 1935, s. 12; amended by No. 23 of 1939, s. 6.

PART VIA.—PROVISIONS RELATING TO GOLD RETURNS AND THE ENFORCEMENT OF PAYMENT OF ROYALTY.

61.—(1.) Every person who is a tributer or the holder of a mining tenement or dredging or sluicing lease or of an authority to enter and prospect upon alienated land shall, once in every month, furnish to the Warden a return, in accordance with the form prescribed, showing the amount of gold won from the land the subject of the tribute agreement, or the land comprised in the mining tenement or dredging or sluicing lease or described in the authority to enter and prospect upon alienated land, during the month immediately preceding the month in which the return is made:

Provided that the first return furnished by any person under

Part VIA.
inserted by No. 19 of 1935, s. 12.

Returns of gold won.
Section 61 substituted by No. 19 of 1935, s. 12.
Sub-section (1) amended by No. 8 of 1940, s. 2.

Mining Ordinance 1928-1940.

the provisions of this sub-section shall include the gold won during the whole or part of any period for which he was at the commencement of this section required by law to furnish, and had not yet furnished, a return :

Penalty: One hundred pounds.

(2.) The Warden shall, upon being furnished with the return, assess the approximate value of gold to which it refers, and the person required to furnish the return shall pay the Warden, within seven days the prescribed royalty based upon the assessed approximate value.

(2A.) Any person required to furnish a return under sub-section (1.) of this section who commits a breach of the last preceding sub-section, shall be guilty of an offence.

Sub-section (2A) inserted by No. 30 of 1936, s. 7.

Penalty: Two hundred pounds or imprisonment for twelve months, or both.

(3.) Within the prescribed time after the assessment by the Warden under the provisions of sub-section (2.) of this section, the person required to furnish the return shall produce to the Warden such evidence as is prescribed regarding the actual price received for the gold, and thereupon the royalty payable on the gold shall be determined finally by the Warden and adjustments made as may be necessary upon the determination.

Sub-section (3) amended by No. 30 of 1936, s. 7.

(4.) Notwithstanding anything contained in this section the Warden may—

(a) at any time finally determine the royalty payable upon any gold found within the Territory; and

(b) seize and retain the gold until the royalty so determined has been paid to him.

(5.) In any proceedings against a person for any failure to comply with any of the provisions of this section the burden of proof that the provisions have been complied with shall be on the person.

(6.) The Administrator may, by notice,⁽¹⁶⁾ appoint any officer to exercise the powers and functions of a Warden under this Part in any locality specified in the notice:

Sub-section (6) added by No. 30 of 1936, s. 7.

Provided that any appointment under this sub-section shall not prevent the exercise of any power or function by the Warden.

62. Any officer appointed for the purpose by the Administrator shall at any time have access to and may, for the purpose of assessing the value of, or determining the royalty payable upon, the gold won, examine the books and accounts of any person

Officers may examine books, &c.

Substituted by No. 19 of 1935, s. 12.

(16) No appointments by office have been published in *N.G. Gaz.*

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required to make the return mentioned in the last preceding section.

Payment of royalty, how enforced.

Substituted by No. 19 of 1935, s. 12.

63. If the royalty payable in respect of any gold referred to in any return furnished under the provisions of section sixty-one of this Ordinance is not paid within seven days after its value has been approximately assessed or the royalty finally determined, it shall be lawful, in either event, for any officer appointed for the purpose by the Administrator to seize and appropriate any gold found in the possession of the person who is liable for the unpaid royalty.

Refund of royalty in certain cases.

Section 63A inserted by No. 23 of 1939, s. 7.

Sub-section (1) substituted by No. 8 of 1940, s. 3.

63A.—(1.) Where the total royalty, as determined finally by the Warden under section sixty-one of this Ordinance, paid directly or indirectly during a half-year commencing after the thirtieth day of September, One thousand nine hundred and thirty-nine by any person who satisfies the Warden that his principal occupation is mining or prospecting or both and that he has been personally engaged in obtaining the gold upon which he has paid the royalty, does not amount to Thirty pounds, the Administrator shall refund to such person the whole of such royalty.

(2.) In this section—

“person” includes a partnership, but does not include a corporation, or a company registered under the provisions of the *Companies Ordinance* 1912-1926 of the Territory of Papua in its application to the Territory of New Guinea;

“half-year” means a period of six months ending on the last day of March or September.

Refund of royalty where tax imposed by *Gold Tax Act* 1939 paid.

Inserted by No. 8 of 1940, s. 4; amended by No. 17 of 1940, s. 3.

63B. A person who has paid tax imposed by the *Gold Tax Act* 1939 of the Commonwealth in respect of gold produced in the Territory shall be entitled to a refund of royalty paid by him under this Ordinance equal to five per centum of the tax so paid and not refunded, or not required to be refunded, under the *Gold Mining Encouragement Act* 1940⁽¹⁷⁾ of the Commonwealth.

Penalty.

Section 64 substituted by No. 19 of 1935, s. 12.

64. Any person who—

(a) is required, under the provisions of this Part, to furnish a return or to produce prescribed evidence and who—

(i) neglects or refuses to furnish the return or to produce the evidence; or

(ii) makes a false statement in the returns or as to the evidence produced: or

(17) Now the *Gold Mining Encouragement Acts* 1940.

Mining Ordinance 1928-1940.

(b) impedes or obstructs any officer appointed by the Administrator to perform any duties under the provisions of this Part,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months, or both.

PART VI B.—SPECIAL MINING EASEMENTS.

Part VI B.
Inserted by
No. 19 of 1935,
s. 12.

64A.—(1.) The holder of a mining tenement may apply to the Administrator for authority to construct and maintain over, upon, across or through any Administration or other land, any roadway, tramway, power transmission line, aerial ropeway, or pipe line or other works, which may be necessary or expedient for the working of the mining tenement.

Application for
authority to
construct
certain works
over other
land.

Section 64A
inserted by
No. 19 of 1935,
s. 12.

(2.) The application referred to in the last preceding subsection shall be in accordance with the prescribed form, be lodged at the Warden's Office nearest to the mining tenement and be accompanied by the prescribed fee.

(3.) A copy of the application shall be served, as prescribed, upon the owner, lessee and occupier of the land the subject of the application.

(4.) Upon receipt of the application the Warden shall post, and keep posted, at his office a copy of the application throughout a period of not less than thirty days.

64B. Within the prescribed time any person may lodge, at the Warden's Office at which the application was posted in accordance with the provisions of the last preceding section, a notice in writing of his objection to the application.

Objections to
application.
Inserted by
No. 19 of 1935,
s. 12.

64c.—(1.) An objection of which a notice has been lodged in accordance with the provisions of the last preceding section shall be heard by the Warden, with the application, as soon as practicable after the time for lodging a notice of objection has lapsed.

Hearing of
application
and objections.

Section 64c
inserted by
No. 19 of 1935,
s. 12.

(2.) The Warden shall appoint the time and place for the hearing of the application and of all objections of which the notices have been lodged as prescribed, and shall give not less than seven clear days' notice of the time and place appointed to the applicant and to every objector.

(3.) On the date appointed for the hearing, the Warden shall inquire into the objection and take such evidence on oath as is tendered by or on behalf of the applicant and the objectors.

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(4.) The hearing and inquiry under this section shall be conducted in open court and the Warden shall have all the powers of a Warden's Court.

(5.) The Warden may adjourn the hearing for any time, or to any place, on such conditions as to costs as he thinks fit.

(6.) At the conclusion of the hearing the Warden shall announce in open court the purport of his proposed report to the Administrator upon the application and the objections and shall transmit to the Secretary for Mines—

- (a) the application and any objections lodged;
- (b) the copy of the evidence taken at the hearing; and
- (c) his report to the Administrator.

(7.) The Secretary for Mines, upon receipt of the documents referred to in the last preceding sub-section, shall submit them to the Administrator.

Determination
by the
Administrator.
Section 64D
inserted by
No. 19 of 1935,
s. 12.

64D.—(1.) On receipt of the documents submitted to him in accordance with the provisions of sub-section (7.) of the last preceding section the Administrator may grant or refuse the application.

(2.) The Administrator may grant the application subject to such conditions as he thinks fit.

Penalty for
obstruction of
work
authorized.
Inserted by
No. 19 of 1935,
s. 12.

64E. Any person who hinders or obstructs the performance of any work authorized under the provisions of this Part shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for six months.

Revocation of
authority.
Section 64F
inserted by
No. 19 of 1935,
s. 12.

64F.—(1.) Where any authority under the provisions of this Part has been granted subject to conditions and there has been any failure to fulfil any of the conditions, the Warden may, by notice in writing served upon the grantee of the authority, require him to show cause within the prescribed time why the authority should not be revoked.

(2.) Upon failure to show cause, the Administrator may revoke the authority.

Part VIc.
inserted by
No. 19 of 1935,
s. 12.

PART VIc.—TRIBUTE AGREEMENTS.

Tribute
agreements to
be in writing
and registered.
Section 64G
inserted by
No. 19 of 1935,
s. 12.

64G.—(1.) Subject to this Part and the Regulations, a tribute agreement may be made in relation to any mining tenement or dredging or sluicing lease, or part of a mining tenement or dredging or sluicing lease.

Mining Ordinance 1928-1940.

(2.) Every tribute agreement shall be in writing and an executed copy of every tribute agreement shall, within the prescribed time, be delivered by the tributer to the Warden to be retained and registered by him, and shall be accompanied by a fee of One pound.

(3.) A tribute agreement shall not take effect until registered by the Warden and a certificate of registration has been issued by him.

(4.) The Warden shall not register any tribute agreement which does not comply with the provisions of this Part and the Regulations.

64H. Every tribute agreement shall define the area of the land which is subject to the tribute agreement.

Land under tribute to be defined.
Inserted by No. 19 of 1935, s. 12.

64I. A tribute agreement shall not be made for any less period than three months but shall provide for the right of either party to terminate the tribute agreement on the breach by the other of any condition contained in it.

Term of tribute agreement.
Inserted by No. 19 of 1935, s. 12.

64J.—(1.) Before any tribute agreement may be terminated for breach of any condition, notice in writing of the termination shall be delivered to the party affected at least seven days before the date of termination.

Notice of termination.
Section 64J inserted by No. 19 of 1935, s. 12.

(2.) A copy of the notice shall be lodged at the Warden's Office at least three days before the date of termination.

64K. Where the parties consent, any dispute arising between the parties to a tribute agreement and in relation to the tribute agreement shall be determined summarily by the Warden and his decision shall be final and conclusive.

Disputes between parties determined by Warden.
Inserted by No. 19 of 1935, s. 12.

PART VII.—ADMINISTRATION.

Division 1.—Wardens' Courts, Wardens, and other Officers.

65. The Administrator may by proclamation⁽¹⁸⁾ establish courts which shall be called Wardens' Courts, with offices which shall be called Wardens' Offices, at such places as he thinks fit, and may assign to any Warden's Court such gold-fields and mineral fields or parts thereof respectively as he thinks fit.

Establishment of Wardens' Courts and assignment thereto of gold-fields and mineral fields.

(18) A Table containing particulars of proclamations made pursuant to Sections 65 and 66 of the present Ordinance and of proclamations made pursuant to Sections 63 and 64 of the repealed *Mining Ordinance 1922-1928* (which were in similar terms to the present Sections 65 and 66) and continued in force by the present Ordinance, is printed on p. 3423. The proclamations still in force are printed immediately after the Table.

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Alteration of locality of Warden's Court and discontinuance thereof, either wholly or partially.

66. The Administrator may by proclamation⁽¹⁸⁾ alter the place at which a Warden's Office is situated or order that any Warden's Court be discontinued, or that any gold-field or mineral field or part thereof cease to be assigned to such court, and be assigned to such other court or courts as the Administrator directs.

Transfer of proceedings and records consequent upon total or partial discontinuance of court.

67. When a Warden's Court is discontinued or any gold-field or mineral field or part thereof ceases to be assigned to that court, all the proceedings pending therein and all the records thereof, or such of the proceedings and records as relate to that gold-field, mineral field or part thereof, shall be transferred to and continued in such other Warden's Court or courts as the Administrator directs.

Nature and general jurisdiction of Wardens' Courts.

Amended by No. 19 of 1935, s. 13.

68. Every Warden's Court shall be a court of record and shall have jurisdiction to hear and determine all actions, suits, claims, demands, disputes and questions which may arise in relation to mining or in any way relating to any mining tenement where the land in respect of which any dispute arises is held under this Ordinance or the repealed Ordinance and in relation to any breach of this Ordinance or the repealed Ordinance or of the Regulations and in relation to any alleged forfeiture and such other jurisdiction as is provided by this Ordinance and may inflict any fine or penalty imposed by this Ordinance or by the repealed Ordinance or by the Regulations in respect of any offence other than an indictable offence.

Jurisdiction of Warden's Court.

69. Every Warden's Court shall have jurisdiction throughout the whole of the Territory.

Venue.

70. When the hearing of a complaint involves the trial of a right to any land or mining tenement or share therein, or any money due in respect thereof, or contributions or calls made or apportioned by or between any persons or bodies corporate for the purpose of carrying on the business of mining or in any way connected therewith, the hearing shall take place in the Warden's Court next hereinafter appointed—

- (a) When the land or mining tenement is situated within the limits of a gold-field or mineral field or part thereof assigned to any Warden's Court, then in the Warden's Court to which the gold-field or mineral field or part thereof is so assigned; and
- (b) In all other cases, in the Warden's Court which has its office nearest to the place where the land or mining tenement is situated.

(18) See footnote (18) printed on p. 3265.

Mining Ordinance 1928-1940.

70A.⁽¹⁹⁾ A defendant shall not be compelled to appear at any Warden's Court unless the defendant or one of two or more defendants, as the case may be, is resident within the limits of a gold-field or mineral field or part thereof which is assigned to that court, or at any place which is not situated within the limits of a gold-field or mineral field, or part thereof, assigned to any other Warden's Court, and to which the office of the Warden's Court before which he is required to appear is the nearest Warden's Office.

Witnesses.

71.—(1.) The Administrator may appoint⁽²⁰⁾ officers to be Wardens, and may from time to time assign⁽²⁰⁾ to a Warden such Warden's Court or Courts as he thinks fit.

Appointment of Wardens.

(2.) The jurisdiction of a Warden shall not be deemed to be thereby limited exclusively to the court or courts so assigned to him.

(3.) Every Warden shall have and exercise jurisdiction in respect of the matters contained in this Ordinance throughout the Territory, with power to issue summonses, warrants, and other processes which shall have legal effect and operation throughout the Territory.

71A. Any act, matter or thing advised, commanded, ordered, directed or done by or before any Assistant Warden between the first day of July One thousand nine hundred and twenty-seven and the first day of March One thousand nine hundred and twenty-eight and which would have been valid if the *Mining Ordinance 1928* (No. 6 of 1928) had been in force at the time such act, matter or thing was so advised, commanded, ordered, directed or done, shall be deemed to have been lawfully advised, commanded, ordered, directed or done.

Validation of acts of Assistant Warden.

inserted by No. 29 of 1931, s. 7.

72. The Warden to whom a Warden's Court is assigned shall be empowered to hold such court from time to time at any place which is within the limits of a gold-field or mineral field or part thereof assigned to the court, or at any place which is not within the limits of a gold-field or mineral field or part thereof assigned to any other Warden's Court, and to which the office of the court held by such Warden is the nearest Warden's Office.

Places for holding Wardens' Courts.

73. In case of the illness or absence on leave or otherwise of a Warden, or on an emergency, another Warden may, at the request in writing of the first-mentioned Warden or the Administrator,

Power for Warden to perform duties of another Warden.

(19) This is an original section of the *Mining Ordinance 1928* (No. 13 of 1928).

(20) From time to time appointments of Wardens individually by name, assignments of Courts to such Wardens, and cancellations of such appointments and assignments have been made. In addition, by five notices all dated 26.6.1935 and published in *N.G. Gaz.* of 29.6.1935, the Administrator appointed the persons for the time being holding the offices of District Officer administering the Districts of Kieta, Madang, Manus, New Ireland and Sepik to be Wardens, and assigned to them the Warden's Courts established at Kieta, Madang, Lorengau, Kavieng and Wewak respectively.

MINING—

exercise all or any of the powers and perform all or any of the duties which that Warden might have exercised or performed.

Power to
appoint acting
Warden.

74. In case of the illness or absence of a Warden or on any emergency, the Administrator may appoint some fit and proper person to discharge the duties of a Warden, and that person shall have the same jurisdiction and all the powers and authorities conferred upon a Warden by this Ordinance.

Warden's
Court held
before Warden
sitting with
assessors.

75. The Administrator may by proclamation⁽²¹⁾ direct that the Warden's Court held on any gold-field or mineral field therein specified may, subject to the provisions of this Ordinance and the Regulations, be held by and before the Warden sitting with assessors, appointed in such manner as is prescribed.

Manner of
hearing cases
in Warden's
Court.

76. Subject to this Ordinance, the Warden's Court shall in all cases be held by and before the Warden sitting alone.

Appointment
of officers.
Substituted by
No. 19 of 1935,
s. 14.

77. The Administrator may, subject to the *Public Service Ordinance 1922-1934*,⁽²²⁾ appoint, and define the duties of, such mining registrars, bailiffs of Wardens' Courts, surveyors or other officers as he deems necessary for the administration of this Ordinance and the Regulations.

Division 2.—Procedure of Wardens' Courts.

Procedure of
Warden's
Court.

78.—(1.) The proceedings taken, forms used, and manner, time and place of hearing and determining all matters within the jurisdiction of the Warden's Court shall be in accordance with this Ordinance and the Regulations.

(2.) The Warden may, notwithstanding anything contained in this Ordinance, upon oral or written complaint of any party, with the consent of both parties immediately on the making of such complaint, or at any time agreed on by the parties, and at any place, investigate the matter of the complaint, and inquire into the case and on his own view or the oath of any witness determine the complaint in a summary way, and thereupon exercise all and every the powers and authorities vested in the Warden's Court in the same manner in every respect as if the case had been heard upon plaint and notice of defence in the usual way.

(3.) In all cases where such consent is given the decision of the Warden shall be final and there shall be no right of appeal.

(4.) The Warden shall in every such case make an entry of the grounds of complaint and defence or cross claim and of the decision.

(21) No proclamation has been published in *N.G. Gaz.*

(22) Now the *Public Service Ordinance 1922-1940*.

79. Any person having a suit in the Warden's Court shall have the right of being represented by his duly constituted agent. Representation of suitor.

80.—(1.) In any case in the Warden's Court the defendant may at any time before the hearing thereof pay into court such sum of money as he deems a full satisfaction in respect of the matters complained of, together with the costs incurred by the complainant up to the time of such payment, and shall cause notice of such payment to be given to the complainant, and that sum of money and costs shall be paid to the complainant or his attorney. Payment into court.

(2.) If the complainant elects to proceed and recovers no further sum than has been so paid into court he shall pay to the defendant the costs incurred by him in the proceeding after the payment, and the Warden may decree accordingly.

81.—(1.) Any person who wilfully insults or obstructs any Warden acting in the exercise of his jurisdiction under this Ordinance, or who wilfully interrupts the proceedings of a Warden's Court may be excluded from the Court by the order of the Warden, and may, whether he is so excluded or not, be summarily convicted by a Warden on view, and on conviction shall be liable to a penalty not exceeding Ten pounds, and in default of immediate payment to be imprisoned for a period not exceeding fourteen days. Penalty for obstructing Warden.

(2.) No summons need be issued against any such offender, nor need any evidence be taken on oath, but he may be taken into custody then and there by order of the Warden, and called upon to show cause why he should not be convicted.

82. Previously to the hearing of any complaint, the parties thereto may agree to accept the decision of the Warden's Court as final, and a memorandum of every such agreement shall be entered by the Warden in the register to be kept by him as provided in this Ordinance, and no appeal shall in such case be made from that decision. Agreement to bar appeal.

Division 3.—Special Powers and Duties.

83.—(1.) Either of the parties shall be at liberty previous to or during the hearing of any complaint to apply to a Warden for inspection to be made of any land or mining tenement in dispute. Right of inspection of mining tenements.

(2.) If the party so applying satisfies the Warden as to the propriety and reasonableness of his application, the Warden—

(a) if the case be heard before him alone, shall make such inspection;

(b) if the case be heard before him and assessors, shall order that the inspection be made by the assessors.

MINING—

alone upon payment to the Warden by the party so applying of such sum (if any) and upon such terms as to the Warden seems reasonable.

(3.) Any sum so paid shall be appropriated towards defraying the expenses of the assessors by reason of such inspection as the Warden may direct.

(4.) Money paid for such expenses shall eventually be paid as part of the costs of the proceedings by such of the parties as the Warden in that behalf directs.

Power for
Warden to
order survey.

84. If, before or during the hearing of any complaint, it appears to the Warden that it is necessary for a survey to be made of any land or water in dispute, the Warden may order either party to cause the survey and a plan thereof to be made, and the costs thereof shall be deemed to be a part of the costs of the hearing.

Power for
Warden to
order seizure
of gold.

85. The Warden, if he thinks fit, at the time of the making of any decision under this Ordinance or the Regulations may order that any gold or other mineral in the possession of and belonging to the party by whom payment of any sum in respect of any debt, damages or costs is ordered to the extent in value of the sum (the value to be fixed by the Warden's Court) shall be delivered up to the party entitled to the sum by way of satisfaction or in part satisfaction thereof.

Power for
Warden to
authorize entry
on adjacent
claim.

86. A Warden may, upon the application of any person claiming to be legally or equitably interested in any claim or in any land comprised in any mining lease or application therefor or in any other land adjoining or adjacent to any claim or land so comprised, by writing under his hand authorize such person as the Warden thinks fit to enter upon any claim or land adjoining or adjacent to the first-mentioned claim or land or other land for the purpose of ascertaining whether the owner or occupier of the claim or land so to be entered upon is encroaching on the first-mentioned claim or land or other land, or if there is any influx of water therefrom or any accumulation of water thereon.

Powers of
persons
authorized to
enter on
claim.

87.—(1.) Any persons authorized may enter upon the claim or land described in the order mentioned in the last preceding section, and descend any shaft or mine to make the necessary surveys and for such purpose may use the engines and other machinery ordinarily employed for that purpose by the persons whose shaft or mine is descended, and to make such plans and sections of the claim or land entered upon, and of any drives or other works therein as is necessary for that purpose.

(2.) Any person so authorized to enter upon any claim or land

shall, before entering thereon, make a statutory declaration before some person authorized to take it that he will not (except as a witness in a court of justice) without the consent in writing of the owner or occupier of the land to be entered upon divulge, or cause to be divulged, to any person whomsoever any information obtained upon or by such entry, save only as to whether there is any such encroachment or any such influx or accumulation of water.

88.—(1.) A Warden, upon the application of any person claiming to be legally or equitably interested in any mining tenement, may hear, receive and examine evidence, and thereupon if he, in his discretion, thinks fit and upon such terms (if any) as he considers just, by order under his hand enjoin any person named in such order—

Power for
Warden to
grant injunction
on notice.

- (a) from encroaching upon, occupying, using or working such mining tenement, or
- (b) from seeking for, washing out, winning, extracting or removing any earth, gold, or mineral taken therefrom, or
- (c) from selling or disposing of or damaging or otherwise interfering with such mining tenement, earth, gold or mineral, or any share or interest therein respectively, or
- (d) from doing any act whereby the right, title or interest of the applicant in or to the tenement might be affected.

(2.) The application shall be heard on notice served at least twenty-four hours before the time for its making, on the parties interested in opposing the application or such of them as appear to the Warden sufficiently to represent the parties so interested, or upon such of them as the applicant can, by using reasonable diligence or means in the opinion of the Warden, serve with notice.

(3.) The Warden may refuse to make an order unless he is satisfied that all parties interested have received notice of the date and place of hearing the application.

(4.) The order shall remain in force for the period mentioned therein, unless sooner discharged by the Warden or some other court of competent jurisdiction.

(5.) Any person who acts in contravention of an order made under this section shall, on conviction before any Warden's Court or District Court, be liable to a fine not exceeding One hundred pounds, or to be imprisoned for any period not exceeding six months, or both, in the discretion of the court.

Service of notice by advertisement, &c., in certain cases.

89. If the Warden is satisfied that reasonable endeavours to serve a notice in accordance with the last preceding section have failed, it shall be sufficient service of such notice if it is advertised in some newspaper circulating in the district in which the subject-matter of the application is situated, and published twenty-four hours at least before the time for the making of the application as the Warden directs, and if there shall be no such newspaper, then by causing such notice to be affixed to the door of the Warden's Office, and on every such application the Warden may make such order as to costs as to him seems just.

Power for Warden to grant injunction for seven days without notice.

90.—(1.) If, by reason of the pressing emergency of any particular case, it seems proper to the Warden so to do, he may on an application under section eighty-eight of this Ordinance, but without any notice by order under his hand, grant an injunction, but to be in force for a period of seven days only inclusive of the day upon which the order is made, or until the order is by the Warden sooner discharged; and no second order for an injunction shall be made for the same cause under this section; but any person at whose instance any injunction is granted under this section shall be at liberty at any time before the expiration of the period of seven days, as well as thereafter, to apply under the provisions of this Ordinance for an injunction for any longer period.

(2.) Any person who acts in contravention of an order made under this section shall, on conviction thereof before any Warden's Court or District Court, be liable to a fine not exceeding One hundred pounds, or to be imprisoned for any period not exceeding six months, or both, in the discretion of the Court.

Power for Warden to order deposit of gold, &c.

91.—(1.) Any Warden may, upon the application of any party to any cause, by order under his hand direct any person, party to or interested in such proceeding, to deposit within the time or times mentioned in the order with any person or at any place named in the order in the name of the Warden, or of any other person mentioned in the order, to abide the decision of the Warden's Court, any gold or other mineral, or any earth, amalgam or matter containing gold or any other mineral, or any money or other chattel described in the order which then is or which at any time before the final termination of such proceeding comes into the possession, power or control of that person, party to or interested in the proceedings and the right to the possession thereof shall be claimed by the applicant.

(2.) No such order shall be made except upon proof to the satisfaction of the Warden that twelve hours' notice at the least of the application has been served on the parties interested in

opposing the order or such of them as appear to the Warden sufficiently to represent the whole:

Provided that the provisions of section eighty-nine in reference to the notice in that section mentioned shall apply to the notices in this section mentioned and to the service thereof.

92.—(1.) The Warden may at any time amend any defect or error in any proceeding before him whether there is anything in writing to amend or not and whether the defect or error is that of the party applying to amend or not.

Power for
Warden to
amend defects
or errors.

(2.) An amendment may be made upon or without payment of costs and upon such terms as the Warden thinks fit, and all such amendments as are necessary for the purpose of determining the real questions in controversy between the parties shall be so made.

(3.) If it appears to the Warden that any party has been delayed, misled or taken by surprise by reason of such defect or error or that injustice would be done by proceeding at once with the case the Warden may, on such terms as to costs or otherwise as he thinks fit, grant such adjournment as he thinks just.

93.—(1.) Where any such proceeding before a Warden's Court is for the recovery and possession of any gold, mineral, earth, land, mining tenement, water-race, drain, dam or reservoir or any share therein, the Warden's Court shall determine the right to the same and fix the boundaries thereof or the limits and quantity of water to be taken by either of the parties if necessary so to do for the purpose of terminating the dispute; and if the complainant succeeds the Court shall determine whether any and what sum in the nature of mesne profits shall be paid to the complainant.

Duty of
Warden's Court
when
proceeding is
for recovery
of land, &c.

(2.) Where the complainant succeeds the Warden shall order possession of such gold, mineral, earth, land, mining tenement, race, drain, dam, reservoir or water, or share to be delivered to the complainant, and any such sum to be paid to him.

(3.) The Warden before whom the proceedings were had shall, or any other Warden may, cause such complainant to be put into possession of any such gold, mineral, earth, land, mining tenement, race, drain, dam, reservoir or water, or share as aforesaid and (if necessary) cause or order any defendant or his servants to quit the same or such part of them as have been awarded to the plaintiff or to desist or be prevented from the using of such water or to remove any buildings or other erections thereon.

94. In case any such proceeding before a Warden's Court shall be in respect of the right to divert any water or to use, remove, or otherwise meddle with any reservoir, race, drain or dam, the Warden's Court shall determine that right, and if the complainant succeeds the Warden shall declare him at liberty to divert, use,

Duty of
Warden's Court
when
proceeding
is as to right
to divert
waters, &c.

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remove, or otherwise meddle with the same and may make an order restraining any defendant, his servants, agents and workmen from preventing the complainant from so doing.

Duty of
Warden's Court
when
proceeding
is in respect of
encroachment.

95.—(1.) Where any proceeding is in respect of any encroachment or trespass upon or injury to any land, mining tenement, race, drain, dam, reservoir or water, the Warden's Court shall determine the right to the same and fix the boundaries of the land, mining tenement, or the limits or quantity to be taken by either or any of the parties of the water if necessary so to do for the purpose of terminating the dispute, and at the same time assess the amount to be paid to the complainant by way of damages (if any) by reason of any encroachment, trespass or injury found to have been committed.

(2.) The Warden shall order such damages to be paid accordingly, and that the person found to have encroached, trespassed or injured, his servants, agents and workmen do cease from such encroachment, trespass, or injury, and the same or any other Warden may cause the person so found to have encroached, trespassed or injured, his servants, implements, goods and chattels to quit or be removed from the land, mining tenement, race, drain, dam, reservoir or water so encroached or trespassed upon or injured or to desist or be prevented from the using of such water and to cause the complainant to be put into possession thereof.

Duty of
Warden's Court
when
proceeding is
in respect of
money due on
a contract.

96. In case any such proceeding shall be in relation to any debt or contract or to money due in respect of any such land or water, or any share or interest therein, or in respect of any gold, mineral or earth or to the amount of any contribution or other sum of money, the Warden shall order any money or damages or gold, mineral or earth which shall be found due or payable or deliverable by either of the parties to the other of them to be paid or delivered accordingly.

Duty of
Warden's Court
when
proceeding is
in respect of
a partnership.

97. In case such proceeding shall be in respect of money due, or gold, mineral or earth deliverable upon a mining partnership account or accruing to the complainant from any mining partnership, adventure or interest, the Warden shall take the account of such partnership, adventure or interest so far as is necessary to ascertain what sum or amount of gold, mineral or earth (if any) is so due or accruing, and the Warden shall order any such sum or gold or mineral to be paid or delivered and may make an order for the dissolution of such partnership if he thinks fit upon such terms as to the sale or division of the partnership property and the payment of the partnership debts as he considers equitable and just.

Mining Ordinance 1928-1940.

Division 4.—Mode of enforcing Orders and Decisions and Interpleader.

98.—(1.) When any sum of money is awarded in a Warden's Court by way of debt, damages or costs or otherwise, and it is not forthwith paid, the Warden on the application of the person entitled to receive it or of any attorney on his behalf shall grant, to the party so applying, a writ of execution under his hand.

Enforcing decision in case of debt, &c.

(2.) Any bailiff of a Warden's Court the Supreme Court or District Court to whom such writ is delivered for execution and all constables and other police officers within their several jurisdictions shall do and perform all things in respect of the writ which such bailiff, constables and police officers are required to do and perform in respect of a warrant or writ of execution issued out of the Supreme Court in the case of the non-payment of money under a judgment of that Court.

Sub-section (2) amended by No. 19 of 1935, s. 27.

(3.) Every bailiff may by virtue of the writ seize and take such property and dispose thereof in the same manner as he could seize, take and dispose thereof by virtue of a writ issuing out of the Supreme Court and shall have the same powers in respect of the sale and disposal of the property and do and execute all duties in respect thereof as are by law conferred and imposed on the bailiff of the Supreme Court upon a writ of *feri facias* issued by a registrar thereof.

Sub-section (3) amended by No. 19 of 1935, s. 27.

(4.) No such writ shall, except upon special cause shown to the satisfaction of the Warden, be issued until after the expiration of seven days from the day on which the decision, under which such sum of money was awarded, was made.

99. Whenever any Warden is empowered or required by this Ordinance to cause any act to be performed and the mode of performing that act is not otherwise expressly provided for, any person authorized in writing by the Warden or any constable or police officer authorized in writing under the hand of the Warden may perform such act, and all constables and police officers shall if thereunto required aid and assist any Warden or person so authorized in the performance of his duty under this Ordinance.

Mode of enforcing Warden's order where not specially provided for.

100. If any claim is made to or in respect of any goods or chattels taken in execution under any process issued by a Warden or in respect of the proceeds or value thereof, by any person not being the party against whom the process has issued, the Warden may, upon application by the officer charged with the execution of the process as well before as after any action brought against that officer, issue a summons calling before the Warden the party issuing the process and the party making the claim; and thereupon

Interpleader.

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any action which has been brought in any court in respect of the claim shall be stayed and the court in which the action is brought or any judge thereof on proof of the issue of the summons and that the goods and chattels were so taken in execution, may order the party bringing the action to pay the costs of all proceedings had upon the action after the service upon him of the summons issued out by the Warden, and the Warden shall adjudicate upon the claim and make such order between the parties in respect thereof and of the cost of the proceedings as he thinks fit, and such order may be enforced in like manner as any order made in any suit brought or any proceedings before the Warden as the case may be.

Heading amended by No. 19 of 1935, s. 27.

Division 5.—Statement of Special Case for the Opinion of the Supreme Court.

Power for Warden to state special case.

101. On any proceeding before a Warden's Court in which the decision is not by this Ordinance declared to be final the Warden may if he thinks fit reserve any question of law in the form of a special case for the opinion of a Judge; in such case no final order shall be made in respect of any matter on which such question is reserved until such opinion is given.

Transmission of special case to Supreme Court.

Amended by No. 19 of 1935, s. 27.

102. Every such special case shall, after it is prepared by the Warden, be transmitted to the Registrar of the Supreme Court, who shall cause it to be set down for argument before the Judge whose decision when given shall be drawn up and transmitted by the Registrar to the Warden who shall make his order in accordance with that decision.

Power for Warden to grant an injunction, &c., in such cases.

103. Whenever any such special case is reserved the Warden who has reserved it may, on the application of any of the parties interested in the case, make such order for an injunction or payment of money into court and upon such terms as the Warden thinks proper.

Heading amended by No. 19 of 1935, s. 27.

Division 6.—Appeals to Supreme Court.

Appeal to Supreme Court. Section 104 substituted by No. 19 of 1935, s. 15.

104.—(1.) Any party aggrieved by a decision of a Warden's Court in any case, in respect of which the decision is not by this Ordinance declared to be final, may appeal to the Supreme Court from the decision within sixty days after its pronouncement.

(2.) The Warden may, upon the application of the party made within three days of the pronouncement of the decision, extend the period mentioned in the last preceding sub-section.

(3.) Any party entitled to appeal under the provisions of this section shall, upon application to the Warden and the payment of

Mining Ordinance 1928-1940.

the prescribed fee, be furnished with a copy of the evidence in relation to the case.

(4.) The appeal shall be instituted by the party—

- (a) serving a notice in writing of the appeal upon the other party or parties affected by the decision; and
- (b) lodging in the Warden's Office a copy of the notice of appeal accompanied by an affidavit proving that it has been duly served, and such security, for an amount not exceeding Fifty pounds, as the Warden shall deem satisfactory and sufficient to cover the costs of the appeal.

(5.) Where the security has been lodged in accordance with the provisions of paragraph (b) of the last preceding sub-section, the Warden shall forward to the Registrar of the Supreme Court certified copies of the proceedings and evidence in the case.

105. Notwithstanding anything contained in the last preceding section, the Supreme Court may, on application *ex parte* by the party appealing, extend the time for compliance with any condition precedent to the hearing of any appeal from a decision of a Warden's Court.

Extension of time.

Amended by No. 19 of 1935, s. 27.

106. No appeal under this Division shall be heard unless, at the hearing, a copy of the minutes of the decision of the Warden, signed and certified under the hand of the Warden or the Mining Registrar, is produced to the Supreme Court, and the Warden is hereby required to lodge the copy or cause it to be lodged at the office of the Registrar of the Supreme Court.

Preliminaries to hearing appeals.

Amended by No. 19 of 1935, s. 27.

107. The power of the Chief Judge of the Supreme Court to make Rules of Court under the *Judiciary Ordinance 1921-1934*⁽²³⁾ shall extend to the making of Rules of Court,⁽²⁴⁾ not inconsistent with this Ordinance, prescribing the procedure to be followed in connexion with appeals to the Supreme Court under this Ordinance.

Rules of Court.

Amended by No. 29 of 1931, s. 8 and by No. 19 of 1935, ss. 16 and 27.

108.⁽²⁵⁾ Upon the hearing of an appeal the Supreme Court may make an order reversing or varying the decision of the Warden's Court, or dismissing the appeal, and the Judge shall (if necessary)

Power for Supreme Court to make order on appeal.

Amended by No. 19 of 1935, ss. 17 and 27.

(23) Now the *Judiciary Ordinance 1921-1938*.

(24) No Rules have been made under Section 107. Before the commencement of the *Mining Ordinance 1928-1940*, *Rules Regulating Appeals from Wardens' Courts* had been made on 20.1.1928 under the *Mining Ordinance 1922-1927*, but these Rules are not continued in force by the present Ordinance.

(25) *Held*, by the High Court, that as Section 103B of the *Mining Ordinance 1922-1926* prescribed that orders made by the Central Court of the Territory of New Guinea on appeal from decisions of a Warden's Court "shall be final and conclusive", leave to appeal therefrom to the High Court could not be granted under Section 24 of the *Judiciary Ordinance 1921-1927*: *Edie Creek Proprietary Limited v Symes* (1929) 43 C.L.R. 53; 3 A.L.J. 274. (The *Mining Ordinance 1922-1928* was repealed by the *Mining Ordinance 1928*, and Section 108 (which replaces Section 103B) omits the words which made such orders of the Supreme Court final and conclusive. By Section 7(2) of the *Judiciary Ordinance 1921-1938*, inserted by Section 4 of the *Judiciary Ordinance 1934*, the "Central Court" became the "Supreme Court").

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order payment of money or the delivery of the possession of any land, mining tenement, water, gold, mineral, or other property to the person who was the complainant before the Warden's Court, or restitution of any land, mining tenement, water, gold, mineral, or other property, as the case requires, and may make such order with respect to the costs of the appeal, and of the proceeding appealed from, as the court thinks fit.

Costs when allowable.

Amended by No. 19 of 1935, s. 27.

109. If, upon the hearing of the appeal, the subject-matter of the dispute appears to the Supreme Court not to exceed in value Twenty pounds, the appellant shall not, although he succeeds, be entitled to receive any costs of his appeal from the opposite party, unless the court is of opinion that the interests involved directly or indirectly in the decision exceed that amount, or that the special circumstances of the case entitle the appellants to costs, in which cases the question of costs shall be in the discretion of the Supreme Court.

Appeals how heard.

110. Subject to the next succeeding section, every appeal shall be heard and determined by a Judge sitting alone, and shall be in the nature of a rehearing or upon such points only as the parties thereto may by consent determine at any time before the hearing of the appeal.

Hearing before a Judge with assessors.

111. When the appeal is from a decision in a case tried before the Warden sitting with assessors, if either of the parties to the appeal so require, it shall be tried before the Judge sitting with three assessors:

Amended by No. 19 of 1935, s. 27.

Provided that at least five days prior to the day fixed for the hearing of the appeal, the party requiring the appeal to be heard by a Judge with assessors shall give notice in writing to the Registrar of the Supreme Court, and shall pay to him a fee of Three pounds.

Appointment of assessors.

112. Assessors for the purpose of this Division may be appointed in such manner, and receive such remuneration, as is prescribed.

Order by Warden pending appeal.

113.—(1.) Whenever any appeal has been brought, or is about to be brought, the Warden, from whose decision the appeal is brought or is about to be brought, on the application of any of the parties interested in the appeal, may make such order for an injunction, or receiver, or payment of money into the hands of the Warden, to abide the event of the appeal, or for stay of proceedings or otherwise, and upon such terms, as he thinks proper, and the Warden may at any time thereafter, if he thinks fit, discharge or vary any such order made by him.

(2.) In the absence of an order under the last preceding subsection, or an order to the same effect by the Judge, no appeal shall operate as a stay of proceedings.

Division 7.—Costs.

114. In default of any special direction each party shall pay his own costs.

Payment of costs in absence of direction.

115.—(1.) Upon the application of any party chargeable with costs by any legal practitioner employed by that party in any proceedings before the Supreme Court or a Warden's Court under this Part, an appointment for taxation of costs may be obtained from the Registrar if the matter is in the Supreme Court or from the Warden if in the Warden's Court and such costs and the demand of the legal practitioner thereupon shall be taxed and settled and allowed at such amount as is determined by the Registrar or the Warden as the case may be and the only costs payable or recoverable save in the case of an agreement in writing to the contrary shall be the costs so taxed and allowed by the Registrar or the Warden.

Taxation of costs.
Sub-section (1) amended by No. 19 of 1935, s. 27.

(2.) Any such sum or sums paid by the party to the legal practitioner on account of or by way of costs of the proceeding in excess of the amount so taxed and allowed shall, on application by that party to the Registrar or the Warden, be ordered to be repaid to that party by that legal practitioner.

116.—(1.) Any person dissatisfied with the result of the taxation by the Registrar or the Warden under the last preceding section may, within thirty days of the conclusion of the taxation, apply for a review of taxation to a Judge.

Review of taxation of costs.

(2.) The application shall be in writing and shall be sent through the Registrar or Warden whose taxation it is desired to review and shall state the general grounds on which the application is made.

(3.) The Registrar or Warden shall forthwith forward the application to the Registrar of the Supreme Court at Rabaul together with his notes of the taxation which it is desired to review.

Sub-section (3) amended by No. 19 of 1935, s. 27.

(4.) The review of taxation as provided in this section shall be by way of rehearing and the Judge shall hear and determine any question or questions arising on the review and may make any order which, in his opinion, the Registrar or Warden could and should have made in relation to the taxation.

(5.) The Judge before whom such taxation is reviewed may make such order as to the costs of the review as he deems fit.

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PART VIII.—GENERAL PROVISIONS.

Devolution of mining tenements.

Amended by No. 19 of 1935, s. 27.

117. All mining tenements acquired and held under the provisions of this Ordinance shall, on the death or insolvency of the holder or holders thereof, devolve on his or their personal representative or representatives or assignee or trustee in insolvency, and shall be liable to seizure and sale under any execution issued from the Supreme Court, Warden's Court, or any District Court in the Territory. The proper officer appointed to sell the mining tenements shall have full power to give an effectual transfer of the interest sold by him.

Dredging and sluicing leases under repealed Ordinance.

Inserted by No. 2 of 1930, s. 6; amended by No. 5 of 1932, s. 8.

117A. Subject to section forty-five A of this Ordinance no dredging or sluicing lease shall be granted under this Ordinance or the Regulations, but any dredging or sluicing leases granted under the repealed Ordinance shall, subject to this Ordinance, continue in full force and effect subject to the terms and conditions contained in those leases and to the provisions of the repealed Ordinance and Regulations thereunder.

Saving of prerogative.

Sub-section (1) amended by No. 19 of 1935, s. 18.

118.—(1.) Notwithstanding anything contained in this Ordinance the holder of any mining tenement under this Ordinance or of a mining lease or of a dredging or sluicing lease granted under the repealed Ordinance shall not, without the approval in writing of the Administrator, transfer, assign, underlet or part with the possession of that mining tenement or any part thereof, and every transfer, assignment, underletting or parting with possession effected without that approval shall be void and of no effect:

Amended by No. 2 of 1930, s. 7.

Provided that this section shall not be deemed to have been contravened in any case where a person enters into a contract or agreement for the transfer, assignment, underletting or parting with the possession of any mining tenement or any part thereof, if the contract or agreement—

- (a) is expressed to be subject to the approval of the Administrator; and
- (b) provides that, unless and until approval is given, the contract or agreement shall have no force or effect:

Added by No. 2 of 1930, s. 7.

Provided further that this section shall not apply to any transfer, assignment, underletting or parting with possession effected in contravention of this section where the Administrator in writing declares that he is satisfied that such contravention was due to inadvertence and subsequently gives his consent to such transfer, assignment, underletting, or parting with possession of any such mining tenement or any part thereof.

Sub-section (2) added by No. 19 of 1935, s. 18.

(2.) Notwithstanding the provisions of the last preceding subsection no transfer, assignment, underletting, or parting with the possession of any mining tenement shall be valid unless the consent

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of the Administrator is applied for within six months from the execution of the contract or agreement mentioned in the first proviso to that sub-section.

(3.) Nothing contained in this section shall be deemed to derogate from any obligation or covenant implied or expressed in any mining lease or any other lease of a mining tenement not to assign, underlet or part with the possession of the land demised without the previous consent of the Administrator.

Sub-section (3) added by No. 19 of 1935, s. 18.

119. No miner's right, lease or licence shall be granted to or held under the provisions of this Ordinance by any company which is not incorporated or registered in the Territory under the provisions of a law or Ordinance relating to the incorporation of^(25A) registration of companies, or whereof the incorporation is not otherwise recognized by a law or Ordinance.

Disqualification of certain companies.

119A.—(1.) Where it appears to the Administrator that—

Notice for protection of investors.
Section 119A inserted by No. 19 of 1935, s. 19.

(a) any share in any company holding any interest, or any option over any interest, in any mining tenement under this or the repealed Ordinance or any licence or permit under this Ordinance or any lease, licence or permit under the *Petroleum Ordinance 1936*⁽²⁶⁾ or any Ordinance repealed by the last-mentioned Ordinance, is either by advertisement or otherwise being offered for sale; and

Paragraph (a) amended by No. 48 of 1936, s. 4.

(b) any representation of fact or of opinion is being made, published or circulated in relation to the company or to the mining tenement, lease, licence or permit, which representation is not in accord with the facts and conditions disclosed by any report of an officer of, or by any information on record in, the Department of Lands, Surveys, Mines, Forests and Titles; and

Paragraph (b) amended by No. 48 of 1936, s. 4.

(c) it is advisable in the interests of investors, he may by notice in the *New Guinea Gazette*, and without stating any reason for the notice, publish such warning, advice or information as he considers necessary for the protection of investors.

(2.) The publication of any warning, advice or information in pursuance of the power conferred by the last preceding sub-section shall be absolutely privileged.

(25A.) The word "of" appeared in the original Ordinance. It has now been omitted and the word "or" inserted in its stead by the First Schedule of the *Ordinances Reprint and Revision Ordinance 1947* of the Territory of Papua-New Guinea.

(26) Repealed and replaced by the *Petroleum (Prospecting and Mining) Ordinance 1938-1939*.

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Leases, &c., to be approved.

Amended by No. 29 of 1931, s. 8.

120. Notwithstanding anything contained in the *Land Ordinance* 1922-1928⁽¹⁴⁾ no Administration lands comprised in a gold-field or mineral field shall be leased, conveyed, granted, or disposed of under the provisions of that Ordinance without the approval of the Administrator.

Party imprisoned may be discharged by Judge of Supreme Court.

121.—(1.) Any person in custody under any order of commitment made under this Ordinance or the Regulations may, upon giving reasonable notice to the person (or to one of such persons if more than one) on whose application the order was granted, or if such person or none of such persons can be found, to the Judge or Warden by whom the order was made, apply in a summary way on affidavit to a Judge for his discharge, and the Judge may, in his discretion and on such terms (if any) as he thinks fit, by order under his hand directed to the gaoler or other person in whose custody such applicant may be, direct that the applicant shall be discharged, and the applicant shall be discharged accordingly.

(2.) When the order of commitment has been founded on any previous decree or order it shall not be lawful for the Judge upon the application to inquire into the merits of such previous decree or order.

Security for wages.

122.—(1.) The amount for the time being due to all managers, clerks, miners, artisans and labourers employed in or about a mine in respect of their wages or other earnings in relation to the mine not exceeding four weeks' wages or earnings to each person, shall, notwithstanding that the claim or leasehold is mortgaged or charged to secure the payment of any other moneys or that there is any lien upon the claim or leasehold, be a first charge upon the claim or leasehold in or on which the mine is situated.

(2.) In the winding-up of a company formed for or engaged in working a mine the amount (if any) due to the date of the winding-up order to such persons in respect of such wages or earnings not exceeding four weeks' wages or earnings to each such person shall be paid in priority to all other debts secured or unsecured of the company. Such first charge shall include all costs awarded against any person or company in any proceedings before a court to recover such wages or earnings and any costs, charges or expenses properly incurred in enforcing such order.

(3.) The debts so charged upon a claim or leasehold and the debts so payable in priority to all other debts of a company shall rank equally amongst themselves, and if necessary shall abate in equal proportions between themselves.

(14) Now the *Land Ordinance* 1922-1941.

123.—(1.) No person may institute proceedings in any court to recover possession of any claim or of any share therein or to recover damages for, or to restrain the occupation of, or encroachment upon, such claim or to obtain any relief as tenant in common, joint tenant or co-partner against his tenant in common, joint tenant or co-partner or to recover any interest or part interest in any water-race, dam or reservoir used or to be used for or in connexion with mining under or by virtue of a miner's right, unless that person was the holder of a miner's right at the time when his alleged title to recover possession, damages, or interest or to obtain such relief first arose or accrued.

Incapacity to sue, &c., without miner's right.

(2.) This section shall not extend or apply to a *cestui que trust* who seeks to enforce the fulfilment of a trust with respect to any such claim, water-race, dam or reservoir.

(3.) The non-production of a miner's right shall be no bar to suing for wages in the Warden's Court.

124. Any person under the age of twenty-one years being the holder of a miner's right may, notwithstanding any law, statute, custom or usage to the contrary, sue and be sued in respect of any matter which is within the jurisdiction of a Warden's Court in the same manner as if he were of full age.

Infancy.

125. Any affidavit to be used in a Warden's Court or court of appeal therefrom, or before a Judge or Warden thereof, may be sworn before any Judge, or any commissioner of the Supreme Court for taking affidavits, or before a district officer or Warden or justice of the peace.

Persons authorized to take affidavits.

Amended by No. 19 of 1935, s. 27.

126. If a Warden, at any time during his appointment, holds any interest or share in any claim, gold-mining or mineral lease, or mining venture in the Territory, he shall be guilty of an offence.

Penalty on Warden holding mining interest or acting if interested.

Amended by No. 19 of 1935, s. 20.

Penalty: Five hundred pounds or imprisonment for three years.

127. Any person who assaults, obstructs, or resists a Warden or any person duly authorized by a Warden or any bailiff or other officer or any clerk or assistant of a bailiff or officer, or an inspector or other person, in lawfully entering upon any claim or land or in performing any other act authorized by this Ordinance, or in the performance of his duty or in the exercise of his powers under this Ordinance, or any person who, after being removed by a Warden under the provisions of this Ordinance from any lands held under the provisions of this Ordinance forcibly or clandestinely retakes or retains, or endeavours to retake or retain, possession thereof, or of any portion thereof, or of any share therein, or who after any decision of a Warden that any complainant is entitled to use for mining purposes or to divert any

Assault on Warden and other officer.

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water (such decision not having been reversed on appeal), resists the complainant or his agents in such use or diversion, or who, upon or in consequence of the decision of any Warden's Court against him assaults or threatens to assault any person in whose favour decision has been made, shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

Power of
Warden to
fine persons
found mining
without
miner's right.

128.—(1.) If any person is found by the Warden to be engaged in mining for gold or any mineral on any Administration land not held by him or his employer under a gold-mining lease, or a dredging or sluicing lease, and does not, on demand, produce his miner's right, or account to the satisfaction of the Warden for not having a miner's right, he shall be guilty of an offence.

Penalty: Two pounds or imprisonment for one month.

(2.) If any person occupies any Administration lands within any proclaimed gold-field or mineral field and carries on business thereon without having a business licence empowering him to do so, he shall be guilty of an offence.

Penalty: Ten pounds and in default imprisonment for one month.

(3.) If any person employs any person, not being the holder of a miner's right, in mining for gold or any mineral on any Administration land not held by him under a gold-mining lease, a mineral lease, or a dredging or sluicing lease, the employer and the person employed shall each be guilty of an offence.

Penalty: Two pounds or imprisonment for one month.

(4.) This section shall not apply to native labourers under contract of service.

Penalty on
witness
neglecting
to appear.

129.—(1.) Any person on whom any summons, issued by a Warden requiring him to appear as a witness in the Warden's Court or before the Warden, has been served personally or in such other manner as is prescribed, and to whom at the same time payment or tender of his expenses on the prescribed scale has been made, and who refuses or neglects, without sufficient cause, to appear according to the tenor of the summons, or who, having so appeared, refuses to be sworn or answer any lawful question, shall be guilty of an offence.

Penalty: Ten pounds and in default imprisonment for one month.

(2.) Any person committing an offence against this section may be charged before and dealt with by a Warden.

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130. Any person who, not being the holder of a miner's right, is found working for gold or minerals on Administration land may be forcibly ejected therefrom by a Warden, police officer, district officer or any other person authorized by the Administrator in that behalf.

Unauthorized miners may be ejected.

130A. Subject to such timber rights as exist at the time and to such conditions as are prescribed and for the purposes of mining and for domestic purposes in connexion with mining, the holder of any mining tenement may cut, take, and use any timber growing on the land which comprises the mining tenement:

Timber rights.
Inserted by No. 19 of 1935, s. 21; substituted by No. 40 of 1935, s. 3.

Provided that the holder of a mining lease, a dredging or sluicing lease, or a dredging claim shall be liable for any fees and royalties payable under any legislation for the time being in force relating to timber or forests.

131. Any person found working for gold or minerals, or removing gold or minerals or gold or mineral ores from the claim, lease or land, of any other person who is personally or by his agents occupying the claim, lease or land, without permission of that other person, whether the claim, lease, or land is—

Proceeding and penalty for mining or removing minerals without authority from claims, &c.

- (a) held under miner's right or mining lease or licence; or
- (b) applied for to be licensed or leased under this Ordinance—

shall be guilty of an offence and may be forcibly ejected by a Warden, police officer, district officer or any other person authorized by the Administrator in that behalf.

Penalty: Fifty pounds.

132. Any person who takes or removes gold, precious stones or mineral ore from the claim, lease or land of any other person without permission of such other person, shall be deemed to have stolen the gold, stones or ore, and any person knowingly receiving the gold, stones or ore shall be deemed to have received them knowing them to have been stolen.

Removing minerals, &c., from claims.

132A. Any person who has in his possession, power, or control, without lawful excuse (the proof whereof shall lie upon him), any gold as defined in the *Gold Buyers Ordinance 1931*⁽²⁷⁾ shall be guilty of an offence.

Possession of gold without lawful excuse.
Inserted by No. 19 of 1935, s. 22.

Penalty: Imprisonment for three years.

(27) Now the *Gold Buyers Ordinance 1931-1938.*

Fees, penalties, &c., how recoverable and applied.

Amended by No. 29 of 1931, s. 8 and No. 19 of 1935, s. 23.

133. All fees, charges and sums of money which are or may be imposed or made payable, and all penalties incurred under this Ordinance or under the Regulations, for which no other mode of recovery is provided by this Ordinance or by the Regulations, may be recovered, carried out, or enforced by a Warden or a District Court in the manner in which convictions and orders are enforceable by District Courts under the *District Courts Ordinance* 1924-1935.⁽²⁸⁾

Proceedings not to be removed into Supreme Court.

Amended by No. 19 of 1935, s. 27.

134. No proceedings under this Ordinance shall be removed or removable into the Supreme Court except as provided by this Ordinance.

Part IX.
(Sections 135 to 189) amended by No. 29 of 1931, s. 8 and by No. 11 of 1933, s. 2; and repealed by No. 19 of 1935, s. 24.

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PART X.—MINING ON NATIVE LANDS.

Mining on native-owned lands; compensation to natives.

190.—(1.) Any person intending to mine on or under any land not alienated by the Administrator which is owned and occupied by natives shall, before beginning any mining operations or any new mining operations, give notice to the Warden of his intention and of the nature of the operations.

(2.) Upon the receipt of a notice under the last preceding sub-section, the Warden shall, subject to this Ordinance, assess the amount of the damage likely to be done to the surface of the land or to any improvements upon the land, and shall require the person so intending to mine the land to deposit with him the amount so assessed, and until that amount is deposited no mining operations shall be carried on either upon or under the land.

(3.) The Warden shall hold the amount deposited as security to be paid either wholly or in part to the natives if they sustain any damage from injury to the surface, or to the improvements on the land, and the remainder, if any, shall be returned to the person making the deposit.

(4.) The Warden shall not permit any operations which, in his opinion, will cause substantial damage to a native village or to any native lands, unless the natives who would be injured thereby give their consent thereto in his presence, and then only subject to such conditions as he approves.

(28) Now the *District Courts Ordinance* 1924-1938.

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PART XI.—RESERVATION TO THE ADMINISTRATION OF GOLD, SILVER,
MINERALS, COAL, SHALE AND MINERAL OILS.

191.—(1.) All gold, silver, copper, tin, antimony, and metals of every description, opals, gems, precious stones, and coal, shale and mineral oils on, in or under all lands—

Gold, silver, minerals, gems, coal, shale and mineral oil on lands in Territory reserved to the Administration.

- (a) alienated in fee simple at any time prior to the commencement of this Ordinance; or
- (b) at any time prior to the commencement of this Ordinance vested in the Administrator or dedicated to any public purpose; or
- (c) held under lease, licence or permit from the Administrator granted under any Ordinance relating to lands in the Territory; or
- (d) being Administration lands; or
- (e) being native lands,

are and shall be deemed always to have been the property of the Administration, and shall be deemed not to have been parted with under any such alienation, dedication, or lease or licence or permit of such lands.

(2.) The term “native lands” in the preceding sub-section includes all lands which have never been vested in the Administrator.

PART XII.—MINING RIGHTS OF NATIVES.

192.—(1.) Aboriginal natives of the Territory shall have all the rights conferred by this Ordinance upon holders of miners' rights for purposes incidental to or connected with mining.

Mining rights of natives.

(2.) Miners' rights shall not be issued to natives, nor shall a native hold any mining tenement on behalf of any person.

(3.) Native labourers engaged by contract of service under any Ordinance relating to native labour shall be at liberty to mine on Administration lands for gold and other minerals, and neither they nor their employers shall be liable to fine or other punishment in respect thereof, and the provisions of this Ordinance conferring power upon the Warden to demand a fee from, and impose a fine on, persons found to be engaged in mining on Administration lands without being able on demand to produce a miner's right or to account satisfactorily for not having a miner's right, shall not apply in the case of those native labourers.

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PART XIII.—REGULATIONS.

Power to make regulations.

Amended by No. 19 of 1935, s. 25.

193. The Administrator in Council may make regulations⁽²⁹⁾ not inconsistent with this Ordinance prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular for—

- (1) determining the dimensions, boundaries, form, position and extent of any mining tenement, or class of mining tenements, and their subsequent adjustment where necessary, the time when such determination shall be deemed to take effect, the number and extent and classes of mining tenements of which any one person or any two or more persons may take possession, and the creation of any new class type or form of mining tenement;

* * * * *

Proviso omitted by No. 2 of 1930, s. 8.

- (2) determining the manner in which persons desirous of taking possession of mining tenements on all lands coming within the operation of this Ordinance shall mark out those tenements, and the requirements to be complied with by those persons;
- (3) providing for the registration of mining tenements and any share or interest therein and any lien or encumbrance thereon, and of the assignment or sub-lease thereof and of any share or interest therein, and of any lien or encumbrance thereon, and of the discharge of any such lien or encumbrance, and for providing for the registration of any such mining tenement, share, interest, lien, encumbrance, assignment or sub-lease in the case of death, insolvency or insanity or of sale under the decree, judgment or order of a court;
- (4) prescribing the labour conditions, not otherwise provided for in this Ordinance, subject to which any mining tenement or class of mining tenements shall be held, and the condition on which exemption from the performance of those conditions may be applied for, granted and obtained, and generally for prescribing the manner in which and with what incidents the rights and obligations of any mining tenement or class of mining tenements shall be taken possession of, held, occupied, used, worked or enjoyed;
- (5) determining the events on which the title to any mining

(29) See the *Mining Regulations*, printed on p. 3295.

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- tenement or any share therein shall become forfeited, and for imposing any penalty on the happening of any one or more of those events in lieu of forfeiture, and for determining what shall constitute exemptions from, or suspensions of, forfeiture, and what person shall be entitled to enforce forfeiture or penalty, and prescribing an order of priority of right in any persons to enforce any forfeiture or penalty;
- (6) limiting the time within which, and prescribing the mode in which, proceedings for any such forfeiture or penalty must be taken;
 - (7) determining whether and under what circumstances any person who has obtained an adjudication of any such forfeiture shall, as a condition precedent to his obtaining possession of the forfeited tenement, pay to the person as against whom the tenement is adjudged forfeited, any sum as compensation for any property upon that mining tenement;
 - (8) regulating the cutting, constructing, use and maintenance of races, dams and reservoirs upon Administration lands;
 - (9) determining whether and under what circumstances and subject to what conditions the holders of licences and miners' rights entitled to the use of any water shall have, amongst themselves, any priority of supply of that water, and, if so, how, or according to what system, that supply shall be regulated, and when the events upon the order of priority of which any such priority is to depend shall be deemed to have occurred;
 - (10) determining what shall constitute relinquished, abandoned or deserted, as distinguished from forfeited, mining tenements or shares therein, and by what person lawfully competent thereto and in what mode, and under what circumstances, it shall be ascertained whether any particular mining tenement or share therein is relinquished, abandoned or deserted within the meaning so determined, and whether, and under what circumstances, a person shall be permitted to relinquish without being liable to any consequences as for the forfeiture of any mining tenement;
 - (11) determining the mode in which any mining tenement or any share therein which may be transferred, assigned, sublet or encumbered may be so transferred, assigned, sublet or encumbered, and in which any lien or encumbrance may be assigned or discharged,

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and for determining the rights and obligations of any assignee, lienee or encumbrancee of or upon any mining tenement or share therein, and the order of priority of any two or more such lienees or encumbrancees;

- (12) regulating the mode in which the rights, privileges and interests of the owners of mining tenements may be exercised or enjoyed, and for limiting, qualifying or restricting the exercise and enjoyment of those rights, privileges and interests, and generally for the protection of the owners in the exercise and enjoyment of those rights, privileges and interests;

Paragraphs (13) to (19) omitted by No. 19 of 1935, s. 25.

* * * * *

- (20) preventing the defiling or wasting of water used for domestic purposes, and for determining whether any and what waterhole, spring or other depository of water shall be reserved for domestic use and the mode of its reservation;

- (21) determining the cases in which Administration lands exempted from occupation for mining purposes shall cease to be so exempted;

- (22) prescribing the manner in which compensation shall be ascertained and paid under the provisions of this Ordinance and the Regulations;

Paragraph (23) omitted by No. 19 of 1935, s. 25.

* * * * *

Paragraph (24) amended by No. 19 of 1935, s. 25.

- (24) prescribing rules for the management of gold-fields and mineral fields;

- (25) defining the manner of doing or performing anything by this Ordinance required to be done or performed;

- (26) prescribing the manner in which registers shall be kept;

- (27) prescribing the survey of any land or mining tenement, and the manner in which it shall be surveyed;

Paragraph (28) amended by No. 19 of 1935, s. 25.

- (28) defining the powers and duties of Wardens, mining registrars, surveyors, and clerks, officers, bailiffs, and assistants in all cases where such powers and duties have not been defined by this Ordinance;

- (29) prescribing the manner in which persons desirous of having leases or licences granted to them shall mark out the land they apply for;

- (30) prescribing the mode of making and investigating and determining upon applications for and objections to

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the granting of leases and licences and the amount of deposit (if any) to be paid by applicants and objectors respectively in connexion with those determinations;

- (31) prescribing the manner of dealing with cases when two or more applications are made in respect of the same mining tenement;
- (32) prescribing the forms of leases, licences, certificates, applications, objections, notices and other documents granted, issued, or used under or for the purposes of this Ordinance;
- (33) prescribing the covenants, conditions, reservations and exceptions to be inserted in leases and licences granted under this Ordinance and the manner in which those leases and licences shall be registered;
- (34) determining the time and mode of ascertaining the amount of any royalty and the time for payment thereof;
- (35) prescribing returns to be furnished by owners and managers of mines and mineral works;
- (36) regulating the pleading, practice and procedure in the Wardens' Courts, and for regulating the sittings of those courts and the duties of the officers and costs of the proceedings therein;
- (37) prescribing the qualifications of assessors, the time and mode of election, and their tenure of office;
- (38) prescribing the qualifications of members of boards the time and mode of election, their tenure of office and the mode of conducting their proceedings;
- (39) enabling boards to enforce their orders or the orders of the chairman or other authorized officer;

* * * * *

Paragraph (40)
omitted by
No. 19 of 1935,
s. 25.

- (41) prescribing the fees (if any) which shall be payable for the several matters hereinafter mentioned—
 - (i) the inspection during office hours of any register kept under the provisions of this Ordinance;
 - (ii) appeals from the Warden's Court to the Supreme Court;
 - (iii) applications, surveys, travelling expenses, and processes and exemptions from performance of labour conditions or conditions of use or occupation or otherwise;

Clause (ii)
amended by
No. 19 of 1935,
s. 27.

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- (iv) the registration of any amalgamation, union or subdivision of leases or mining tenements, or of any mortgage, lien or encumbrance, or any transfer or discharge thereof, or of any underlease, assignment or transfer, or of any rules or agreements, or of any other document of any kind whatsoever;
- (v) the filing of any declaration of the loss of any document;
- (vi) the registration of transmission by death or under the laws relating to insolvency or insanity;

Clause (vi) amended by No. 19 of 1935, s. 25.

Clause (vii) omitted by No. 19 of 1935, s. 25.

* * * * *

- (42) prescribing the rents (whether by way of fixed annual charge or royalty or both) and fees which shall be paid in respect of leases and licences;
- (43) prescribing penalties not exceeding a fine of One hundred pounds or imprisonment for any period not exceeding six months for breaches of the Regulations.

Regulations may be general or local, and to be judicially noticed.

194. The Regulations may be made to apply to the whole Territory or to any particular part thereof, and shall be judicially noticed in every court of justice.

Regulations may impose penalties.

195.—(1.) The Regulations may impose, for any disobedience of a lawful order of a Warden or other authorized officer, a fine not exceeding One hundred pounds, and in default of payment imprisonment for six months.

Sub-sections (2) and (3) omitted by No. 19 of 1935, s. 26.

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Schedule added by No. 2 of 1930, s. 9.

THE SCHEDULE.

- Mining Ordinance* 1922.
- Mining Ordinance* (No. 2) 1922.
- Mining Ordinance* 1923.
- Mining Ordinance* (No. 2) 1923.
- Mining Ordinance* (No. 3) 1923.
- Mining Ordinance* (No. 4) 1923.
- Mining Ordinance* 1924.
- Mining Ordinance* 1925.
- Mining Ordinance* (No. 2) 1925.
- Mining Ordinance* 1926.
- Mining Ordinance* (No. 2) 1926.
- Mining Ordinance* 1927.
- Mining Ordinance* (No. 2) 1927.
- Mining Ordinance* 1928 (No. 6 of 1928).