

BECHUANALAND PROTECTORATE.

No. 5 of 1945.

(Promulgated 26th January, 1945.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER
Entitled the Bechuanaland Protectorate Mines and
Minerals (Amendment) Proclamation, 1945.

Whereas it is expedient to amend the Mines and Minerals Proclamation, 1932, of the Bechuanaland Protectorate, hereinafter referred to as "the principal law", in order to make provision for exploring, prospecting and mining for petroleum:

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. Section *two* of the principal law is hereby amended as follows:—

(a) By deleting from sub-section (1) (l) the words—

"(d) oil and oil shale.",
and substituting therefor the words—
"petroleum, including natural gas.";

(b) by inserting, immediately after sub-section (1) (y) the following additional definitions:—

(z) "Petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal, oil shale or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

(aa) "Natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons.

(bb) "Crude oil" means mineral oil in its natural state before the same has been refined or otherwise treated but excluding water and foreign substances.

(cc) "Casinghead petroleum spirit" means any liquid hydrocarbons obtained from natural gas (before the crude oil from which it is derived has been measured for royalty) by separation or by any chemical or physical process.

Amend-
ment of
section 2 of
Proclama-
tion No. 33
of 1932.

(c) By deleting sub-section (3) and substituting therefor the following sub-section:—

“ (3) Unless and until it may be otherwise provided in any law hereafter enacted, the provisions of this Proclamation shall for the time being apply, as if oil shale was a mineral within the meaning of this Proclamation, to the exercise of any right to prospect for or win oil shale in the Territory :

Provided that no right acquired with regard to oil shale, so long as it is included in the term ‘ minerals ’ within the meaning of this Proclamation, shall prejudice the provisions of any law that may hereafter be enacted with regard to it.”

Amendment of section 6 (3) of Proclamation No. 33 of 1932.

2. Sub-section (3) of section *six* of the principal law is hereby amended by inserting the words “ exploring and/or ” immediately before the word “ prospecting ” wherever it appears in the said sub-section.

New Part VIA of Proclamation No. 33 of 1932.

3. The following additional Part numbered “ Part VIA ” is hereby inserted immediately after Part VI of the principal law:—

PART VIA.

EXPLORING, PROSPECTING AND MINING FOR PETROLEUM.

Exploring, etc., for petroleum.

43A. (1) No person shall explore for petroleum on any area to which this Proclamation or any of its provisions have been applied except on claims of which he is the holder unless he is the holder of an exploration licence, but the holder of an exploration licence may employ other persons to assist him in exploring if they are working under his personal supervision.

(2) No person shall prospect for petroleum on any area to which this Proclamation or any of its provisions have been applied except on claims of which he is the holder unless he is the holder of a prospecting licence, but the holder of a prospecting licence may employ other persons to assist him in prospecting if they are working under his personal supervision.

(3) Except as provided in sub-section (4) hereof no person shall explore, prospect or mine for petroleum on any land unless the High

Commissioner has, by Notice in the *Gazette*, declared such land to be open for exploring, prospecting or mining for petroleum.

(4) No person shall explore, prospect or mine for petroleum on any Crown Land or Native Reserve unless he is the holder of a Crown Grant issued under section *thirty-five* authorising him to do so.

(5) Any person exploring, prospecting or mining for petroleum in contravention of this section shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months in respect of each such operation undertaken by him, and any petroleum found may be forfeited to the Government.

Rights of
holder of
Crown
Grant.

42b. (1) The holder of a Crown Grant entitling him to explore for petroleum shall have the preferent right, during the currency of his Grant, to the issue of a Crown Grant entitling him to prospect for petroleum in respect of the whole or any portion of the land in respect of which he holds a current Crown Grant entitling him to explore for petroleum.

(2) The holder of a Crown Grant entitling him to prospect for petroleum shall have the preferent right, during the currency of his Grant, to the issue of a Crown Grant entitling him to mine for petroleum in respect of the whole or any portion of the land in respect of which he holds a current Crown Grant entitling him to prospect for petroleum.

Area.

43c. (1) A petroleum exploration licence shall not be granted in respect of any area of less than eight square miles.

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

(a) more than two hundred square miles, or

(b) less than eight square miles, save in cases where special exemption is granted by the High Commissioner.

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

(a) more than one hundred square miles, or

(b) less than four square miles, save in cases where special exemption is granted by the High Commissioner.

Application of sections 6, 10, 15 and 17 to petroleum.

43D. The provisions of sections *six, ten, fifteen and seventeen* of this Proclamation shall *mutatis mutandis*, and save as is otherwise herein provided, apply to the exploring, prospecting and mining for petroleum.

Rentals for licences and leases.

43E. There shall be payable to the Government by the holder of any Crown Grant a certain annual rental at the following rates:—

I. *Petroleum exploration licences:*

One shilling for each square mile comprised in the licensed area, with a minimum of £100 per annum and a maximum of £1,000 per annum.

II. *Petroleum prospecting licences:*

In respect of each year of the initial term five shillings, and in respect of each year of any renewal of the term ten shillings, for each square mile comprised in the licensed area, with a minimum of £10 per annum for each year of the initial terms and £20 per annum for each year of any renewal of the term.

III. *Petroleum mining leases:*

	<i>Per Morgen.</i>	
	<i>Per Annum.</i>	
	s.	d.
In respect of the first year of the term of a petroleum mining lease	2	0
In respect of the second year of the term of a petroleum mining lease	2	0
In respect of the third year of the term of a petroleum mining lease	2	0
In respect of the fourth year of the term of a petroleum mining lease	3	0

	<i>Per Morgen.</i>
	<i>Per Annum.</i>
	s. d.
In respect of the fifth year of the term of a petroleum mining lease	4 0
In respect of the sixth year of the term of a petroleum mining lease	5 0
In respect of the seventh year of the term of a petroleum mining lease	6 0
In respect of the eighth year of the term of a petroleum mining lease	8 0
In respect of the ninth year of the term of a petroleum mining lease	10 0
In respect of the tenth and each subsequent year of the term of the lease	12 0

Royalties. 43r. There shall be payable to the Government, or to the appropriate Native Administration, royalties as follows:—

I. By the holder of any Crown Grant entitling him to explore or prospect for petroleum—

(1) on crude oil and casinghead petroleum spirit, three shillings per ton of two thousand pounds;

(2) on natural gas, two pence per thousand cubic feet sold subject to a reduction of one half where the gas is sold to other licensees or lessees for repressuring purposes.

II. By the holder of any Crown Grant entitling him to mine for petroleum—

(1) on crude oil, three shillings per ton of two thousand pounds;

(2) on casinghead petroleum spirit, one farthing per Imperial gallon in respect of the yield up to two Imperial gallons and one-halfpenny in respect of the yield over two Imperial gallons per thousand cubic feet of gas treated;

(3) on natural gas, two pence per thousand cubic feet sold, subject to a reduction of one-half

where the gas is sold to other licensees or lessees for repressuring purposes.

The said Royalties shall be assessed and paid in such manner as the High Commissioner may from time to time, by Notice in the *Gazette*, prescribe.

Security for
payment of
compensa-
tion.

43G. Where at the time the application is made for a licence or Crown Grant, it appears to the Resident Commissioner that the exercise of the rights conferred by such licence or Crown Grant would occasion damage to or any interference with the rights of any person or tribe in or over the area in respect of which the application is made, the Resident Commissioner may make the granting of the licence or Crown Grant conditional upon the applicant depositing with the Chief Mining Commissioner such sum as security for the payment of reasonable compensation for any damage occasioned to such person or tribe as to the Resident Commissioner may seem fit.

Compensa-
tion.

43H. When exercise of the rights conferred by any licence or Crown Grant causes damage to or interference with the rights of any person or tribe in or over the land included in the area the subject matter of the licence or Crown Grant, such person or tribe shall have a right to compensation for the damage or interference caused, the amount of such compensation, in the absence of agreement, to be determined by the Resident Commissioner.

Refund of
the balance
of security.

43I. On the determination of any licence or Crown Grant, whether by effluxion of time, surrender, forfeiture or otherwise, the amount of any security furnished under section 43H remaining after the satisfaction of all claims notified prior to such determination shall be refunded to the licensee or grantee.

Water
rights.

43J. Any such licence or Crown Grant may confer upon the licensee or grantee such rights in relation to water, together with rights of storage and conveyance of water, as may be necessary for the proper exercise of

the liberties, powers and privileges conferred by such licence or Crown Grant:

Provided that where private, or tribal rights in or over water are thereby affected, the possessors of such rights may object to the granting of such water rights, and any such objection shall be referred to and determined by the Chief Mining Commissioner.

Period of licence. 43K. The initial term of an oil prospecting licence shall not exceed four years.

Renewal of licence. 43L. The High Commissioner may in his discretion, on application made by the licensee on three months' notice in writing, grant a renewal of an oil prospecting licence in respect of the whole of the licensed area or any part or parts thereof which comply with section 43C for a further term of twelve months.

Reciprocity 43M. A licence or lease shall not be granted to or held by any person who is or becomes controlled directly or indirectly by a national of or by a company incorporated in any country the laws and customs of which do not permit British subjects or companies incorporated in His Majesty's dominions or companies incorporated in that country controlled directly or indirectly by British subjects or companies incorporated in His Majesty's dominions to acquire, hold and operate petroleum concessions on conditions which in the opinion of His Majesty's Principal Secretary of State for Dominion Affairs are reasonably comparable with the conditions upon which such rights are granted to nationals of that country.

Regulations. 43N. In addition to the powers conferred by section *one hundred and ten* of this Proclamation, the High Commissioner may by notice in the *Gazette* make regulations providing—

- (a) for the making of returns of petroleum won;
- (b) for the manner of assessment and payment of royalties;

(c) for the periodical revision of the scale of royalties;

(d) for the period, terms and conditions of any Crown Grant relating to exploring, prospecting or mining for petroleum, or any renewal thereof;

(e) for prescribing the fees payable in respect of applications for licences and leases, and the forms to be completed and information to be supplied in connection with any matter relating to exploring, prospecting or mining for petroleum;

(f) for furnishing information as to the technical and financial qualifications of any person applying for a Crown Grant, and of all persons employed by him;

(g) for demarcating claims and prescribing the area and shape thereof;

and generally for the proper and efficient management of all petroleum exploration, prospecting and mining operations.

Amendment of Second Schedule to Proclamation No. 33 of 1932.

4. The Second Schedule to the principal law is hereby amended as follows:—

(a) By inserting, immediately before the word "diamonds", the words "petroleum, oil shale and";

(b) by inserting at the end of paragraph 1 the words—
"Oil shale: Four pence per ton of 2,000 lb."

Short title and commencement.

5. This Proclamation may be cited as the Bechuanaland Protectorate Mines and Minerals (Amendment) Proclamation, 1945, and shall come into force on a date to be fixed by the High Commissioner by Notice in the Gazette.

*2/1/46
from 1/2/46
H. 12/46.*

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town this Twentieth day of January One thousand Nine hundred and Forty-five.

E. BARING,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.