

Oil Mining

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CHAPTER 85 (1958 Edn.)
incorp. Am. Cap.A178/2018



THE LAWS

OF

SARAWAK

REVISED EDITION

1958

CONTAINING LEGISLATION ENACTED PRIOR
TO 31ST DECEMBER, 1958

PREPARED UNDER THE AUTHORITY OF
THE REVISED EDITION OF THE
LAWS ORDINANCE, 1956

BY

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(Ex-officio)

IN NINE VOLUMES

Volume IV

CONTAINING ORDINANCES, CHAPTERS 75 TO 109.

PERPUSTAKAAN
ABATAN PEGUAM BESAR NEGERI SARAWAK

NOTE: as extracted from the Petroleum Mining Act, 1966
(F. Act 58/66), as amended by P.U.(A)467/69 (Ord. 10, Laws of Malaysia)

Sabah 13(2) The Mining Ordinance of Sabah, the Oil Mining
No. 20 Ordinance of Sarawak and any other State law in force
of 1960 in Sabah or Sarawak relating to mining shall continue
Sarawak in force except in relation to the exploration, pros-
Cap. 85. pecting or mining for petroleum in off-shore land and
the provisions of the said Ordinances and any such
law insofar as they relate to the exploration, pros-
pecting or mining for petroleum in off-shore land
shall upon the commencement of this Ordinance cease
to have force or effect.

CHAPTER 85.

OIL MINING

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Cap. A178/2018 – w.e.f.: 03-Aug-2018

“alienated land” means land issued with a document of title and held by the registered proprietor thereof but subject to the rights of the Government under section 36 of the Land Code [*Cap. 81 (1958 Ed.)*];

“Authority” means the State Minerals Management Authority established under the Minerals Ordinance, 2004 [*Cap. 56*];

“document of title” has the same meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“Government” means the Government of the State of Sarawak;

CHAPTER 85.

OIL MINING

4 of 1958.

An Ordinance to make better provision in the law relating to oil mining in Sarawak and on its Continental Shelf.

[9th June, 1958]

PART I

GENERAL.

1. This Ordinance may be cited as the Oil Mining Ordinance. Short title.

2. In this Ordinance and in every licence and lease issued hereunder— Interpretation.

~~“alienated land” means land the oil rights in which are vested in the Crown but the surface of which has been alienated at any time whether such surface has reverted in the Crown or not;~~

(Subt'd by Cap. A178)

~~“British subject” shall be deemed to include a person under Her Majesty's protection;~~

[Deleted by Cap. A178-w.e.f.: 03-Aug-2018]

“Continental Shelf” means that area of the Continental Shelf which has been included in the boundaries of Sarawak by virtue of the Sarawak (Alteration of Boundaries) Order in Council, 1954.

~~“Crown land” has the meaning assigned to it in the Land Code;~~

[Deleted by Cap. A178-w.e.f.: 03-Aug-2018]

“crude oil” means oil in its natural state before the same has been refined or otherwise treated but excluding water and foreign substances;

~~“document of title ...” and “Government ...” -- ins. by Cap. A178~~

~~“Her Majesty's dominions” shall be deemed to include British Protectorates and protected States and territories administered by the Government of any part of Her Majesty's dominions in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations;~~

[Deleted by Cap. A178-w.e.f.: 03-Aug-2018]

“land” and “lands” include the foreshores and submarine areas beneath Sarawak ^{/ territorial} waters and also the area of the Continental Shelf;

(Am. Cap. A178-w.e.f.: 03-Aug-2018)

Vol. VI,
p. 1025.

Cap. 81.

"lessee" means a person to whom a lease is granted under this Ordinance and includes his successors in title and the persons deriving title under him;

"licensee" means a person to whom a licence is granted under this Ordinance and includes his successors in title and the persons deriving title under him;

^{"mining structures ..." and "Minister ..." --- Ins. by Cap. A178}
 "natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons;

"person" shall be deemed to include a company;

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

(Sub'd by Cap. A178)

Restriction
on oil pros-
pecting or
mining, etc.

^{"Reserved Land ..." and "State land ..." --- Ins. by Cap. A178}
 3.—(1) Save as provided in subsection (2), any person found to be exploring, prospecting or mining for crude oil, petroleum or natural gas upon any land or doing any act with a view to such exploring, prospecting or mining on the same and without having received lawful authority so to do under any of the provisions of this Ordinance or in breach of any of the conditions thereof, shall be guilty of an offence: Penalty, a fine of ~~ten thousand dollars~~, and all machinery, plant, tools, buildings or other property together with any minerals or other products which may be found upon or proved to have been obtained from the land so unlawfully prospected or mined shall be liable to forfeiture.

(2) Nothing in this Ordinance or in any rules made hereunder shall invalidate any prospecting licence or mining lease issued by the lawful authority of the Government ~~of Sarawak (whether before or after Sarawak became a Colony)~~ prior to the passing of this Ordinance or in the absence of any express provisions in that behalf abrogate any of the rights or privileges expressly conferred thereby:

“mining structures” means any facility or structure, including platforms, used for activities related to the exploration, prospecting and production or storage of oil and natural gas, erected on or affixed to land or to the seabed and subsoils on the continental shelf within the boundary of Sarawak;

“Minister” means the Minister for the time being charged with the responsibility for natural resources;

“petroleum” means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casinghead petroleum spirit including bituminous shales and other stratified deposits from which mineral oil or relative hydrocarbon and natural gas can be extracted.

“Reserved Land” shall have the same meaning assigned to that expression in the Land Code [*Cap. 81(1958Ed.)*]; and

“State land” shall have the same meaning assigned to that expression in the Land Code [*Cap. 81(1958Ed.)*].

Restriction against building, erecting *etc.* of mining structures

3A.—(1) No person shall build, erect, maintain or decommission any mining structure on any land onshore or in the continental shelf unless authorised by the terms in any licence or mining lease issued under this Ordinance or with the approval in writing of the Authority and subject to any condition or restriction imposed in that licence, mining lease or approval granted by the Authority.

(2) Any person who fails to comply with subsection (1) shall be guilty of any offence and shall, upon conviction, be punished with a fine of not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding three years or to both.

Provided that—

(a) every such right or privilege shall be limited to the extent prescribed by such licence or lease; and

(b) save as by such licence or lease is expressly otherwise provided, it shall be incumbent on the licensee, lessee or occupant to prospect or mine in accordance with the conditions set forth in this Ordinance or any rules made hereunder and in all respects as if his licence or lease had been issued under this Ordinance.

Cap. 81.

(3) For the purposes of section 36 of the Land Code, every licence or lease to which subsection (2) applies shall be deemed to have been made under a written law.

3A.—(1) No person ... Ins. by Cap. A178

4. Any person may apply in accordance with this Ordinance for—

Persons by whom application may be made.

(a) an oil exploration licence;

(b) an oil prospecting licence; or

(c) an oil mining lease,

in respect of ~~Crown~~^{State} land or of alienated land or of both.

(Am. Cap. A178- w.e.f.: 03-Aug-2018)

5.—(1) Every application shall be made in writing in the form set out in the ~~First~~ Schedule addressed to the ~~Chief Secretary~~ Authority

Manner in which application may be made.

(2) The application shall state—

(a) in the case of an application by an individual, his address, nationality and occupation; and

(b) in the case of an application by a company, the nature of, and the principal place of business of, the company (and if the principal place of business is outside Sarawak, the name and address of a duly authorized agent in Sarawak), the names and nationality of the directors thereof and the names and holdings of ~~the principal shareholders~~ / all the shareholders of the company

/Malaysia

(3) An application by ~~an alien or~~ a company incorporated outside ~~Her Majesty's dominions~~ shall contain, in addition to the matter specified in subsection (2), full particulars of the company to be incorporated in accordance with subsection (1) of section 11 in ~~Sarawak or in some part of Her Majesty's dominions~~ for the purpose of receiving the grant of and exploiting any licence or lease which may be granted in pursuance of the application or full particulars as to why it should be exempted from complying with the provisions of subsection (1) of section 11.

2/ Authority

(4) With the application there shall be sent the prescribed fee for any type of licence or lease under this Ordinance, but if the application be refused the ~~Chief Secretary~~ shall repay to the applicant one half of the fee so paid.

(5) To the application there shall be attached two copies of a recognised official map of Sarawak or any part thereof upon which shall be delineated the boundaries of the area in respect of which a licence or lease is applied for.

(6) The applicant shall, with his application, furnish evidence as to his financial and technical qualifications, and as to his ability to comply with any terms and conditions contained in the standard clauses of the licence or lease for which application is made, copies of which clauses shall be available for inspection at the office of the ~~Chief Secretary~~, and, in the case of an application by ~~an alien or~~ a company incorporated outside ~~Her Majesty's dominions~~, other than ~~an alien or~~ company who has applied for exemption under subsection (2) of section 11, the like evidence in relation to the company to be incorporated in accordance with subsection (1) of that section in ~~Sarawak or in some part of Her Majesty's dominions~~ for the purpose of receiving the grant of and exploiting any licence or lease which may be granted in pursuance of the application. The applicant shall forthwith, upon request by the ~~Governor in Council~~, furnish further evidence

/Majlis Mesyuarat
Kerajaan Negeri

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No assignment or transfer of licence or lease

8.—(1) A licence or lease shall not be assigned or transferred without the prior written approval of the Majlis Mesyuarat Kerajaan Negeri.

(2) Where a licence or lease is granted to a company, a transfer of the licence or lease shall be deemed to have occurred if the controlling shares of that company have been transferred to any person whether or not he is already a holder of the shares thereof.

(3) For the purpose of this section, the expression “controlling shares” shall mean shares in a company which in aggregate command or control more than fifty per cent of the voting powers at a general meeting of that company.

Restriction on award of contract *etc.* by licensee or lessee

8A. A licensee or lessee shall not—

(a) award any contract to any person to undertake any activity permitted or authorized under the licence or lease; or

(b) enter into any agreement or arrangement whereby the rights, privileges or benefits conferred under any licence or lease is to be enjoyed by any other person,

without the prior written approval of the Majlis Mesyuarat Kerajaan Negeri.

relating to such matters, and if such further evidence shall not have been furnished to the satisfaction of the ~~/Governor in Council~~ within three months of the request therefor the application shall, unless the ~~/Governor in Council~~ otherwise determines, be deemed void and the fees forfeited to the Government.

(Am. by Cap. A178-w.e.f.: 03-Aug-2018)

(7) All information comprised in, or furnished to the ~~/Governor in Council~~ in pursuance of, an application made in accordance with this Ordinance shall be treated as confidential.

6. Where an applicant requires a licence or lease for two or more separate areas, a separate application shall be made in respect of each such area.

Separate applications to be made.

7. Nothing in this Ordinance shall prevent more than one licence or lease being granted to the same person.

Grant of more than one licence or lease.

~~8. A licence or lease shall not be assigned without the previous consent in writing of the Governor in Council.~~

Assignability.

(Subt'd by Cap. A178)

8A. A licensee ... Ins. by Cap. A178

9. An application by a licensee or lessee for the assignment of a licence or lease shall be made in writing addressed to the ~~Chief Secretary~~ and shall be accompanied by the prescribed fee. With the application, the applicant shall furnish the like particulars in respect of the proposed assignee as are required to be furnished in the case of applicants for licences and leases under section 5.

Method of making application for assignment.

/Authority

(Am.by Cap. A178-w.e.f.: 03-Aug-2018)

~~[10. 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 Her Majesty's dominions, or companies incorporated in that country controlled directly or indirectly by British subjects or companies incorporated in Her Majesty's dominions, to acquire, hold and operate petroleum concessions on conditions which in~~

Reciprocity.

the opinion of the Secretary of State are reasonably comparable with the conditions upon which such rights are granted to nationals of that country with the addition of conditions corresponding to those set out in the Second Schedule.]

[Deleted by Cap.A178-w.e.f.: 03-Aug-2018]

Application by an alien or a company incorporated outside Her Majesty's dominions.

11. (1) In the case of an application for a licence or a lease by an alien or a company incorporated outside Her Majesty's dominions, or in the case of an application by a licensee or a lessee for the consent of the Governor in Council to the assignment of a licence or lease to an alien or a company incorporated outside Her Majesty's dominions, such licence or lease shall, subject to the provisions of subsection (2), only be granted or assigned to a company incorporated in Sarawak or in some part of Her Majesty's dominions for the purpose of receiving the grant of and exploiting any such licence or lease.

(2) Notwithstanding the provisions of subsection (1), the Governor in Council may with the approval of the Secretary of State exempt in writing any alien or company from the provisions of subsection (1) either indefinitely or for such period as may be specified in the exemption and in either case subject to such conditions as the Governor in Council with the approval of the Secretary of State may consider fit to impose.

(Subt'd. by Cap. A178)

Lapse of right to licence or lease.

12. If a licence or lease is not executed within six months after approval of the application by the Governor in Council the right of the applicant to such licence or lease shall be deemed to have lapsed, unless the Governor in Council considers that the delay is not attributable to the fault of the applicant.

Publication.

13. The Clerk of Councils shall, as soon as may be after the grant, surrender, determination or assignment of any licence or lease under this Ordinance, publish a notice of the fact in the Gazette stating the name of the licensee or lessee or assignee and the situation of the area concerned.

(Subt'd. by Cap. A178)

Application by a company incorporated outside Malaysia

11.—(1) In the case of an application for a licence or a lease by a company incorporated outside Malaysia, or in the case of an application by a licensee or a lessee for the approval of the Majlis Mesyuarat Kerajaan Negeri to the transfer or assignment of a licence or a lease to a company incorporated outside Malaysia, such licence or lease shall, subject to the provisions of subsection (2), only be granted, transferred or assigned to a company incorporated in Malaysia for the purpose of receiving the grant of and exploiting any such licence or lease.

(2) Notwithstanding the provisions of subsection (1), the Majlis Mesyuarat Kerajaan Negeri may exempt in writing any company from the provisions of subsection (1) either indefinitely or for such period as may be specified in the exemption and in either case subject to such conditions as the Majlis Mesyuarat Kerajaan Negeri may consider fit to impose.

Publication

13. The Minister shall, as soon as may be after the grant, surrender, determination or assignment of any licence or lease under this Ordinance, publish a notification in the *Gazette* stating the name of the licensee or lessee or assignee and the situation of the area concerned.

Bond to be executed by licensees and lessees

14. Before the grant or renewal of any licence or lease under this Ordinance, a bond for such amount as may be determined by the Majlis Mesyuarat Kerajaan Negeri in the form appropriate to such licence and lease shall be provided by the licensees or lessees.

Majlis Mesyuarat Kerajaan Negeri may grant oil prospecting licence

19. The Majlis Mesyuarat Kerajaan Negeri may, upon the recommendation of the Authority, grant an oil prospecting licence over the lands specified therein whether or not the applicant has been the holder of an oil exploration licence under this Ordinance.

~~14. Before the grant or renewal of any licence or lease under this Ordinance a bond shall be executed in the form appropriate to such licence or lease.~~

~~Bond to be executed by licensee and lessee.~~

(Subt'd. by Cap. A178]

PART II

OIL EXPLORATION LICENCES.

15. The ~~Governor in Council~~ may grant an oil exploration licence over the lands specified therein subject to the payment by the licensee of the prescribed fee.

~~Governor in Council may grant oil exploration licence.~~

16. An oil exploration licence shall not be granted in respect of any area of less than ^{*eight square miles.}

^{*twenty square kilometres}
Area covered.

17. The initial term of an oil exploration licence shall not exceed two years.

Period.

18.—(1) The ~~Governor in Council~~ may, on application made by the licensee on three months' notice in writing, grant a renewal of an oil exploration licence in respect of the whole of the licensed area, or any part thereof which complies with section 16, for a further term of twelve months.

Renewal.

(2) In this section "oil exploration licence" includes an exploration licence of which one renewal has, or more than one renewal have, been granted.

PART III

OIL PROSPECTING LICENCES.

~~19. The Governor in Council may grant an oil prospecting licence over the lands specified therein whether or not the applicant has been the holder of an oil exploration licence under this Ordinance. Subject to the rights of an applicant who is the holder of a valid oil exploration licence, the grant of an oil prospecting licence shall be at the discretion of the Governor in Council.~~

~~Governor in Council may grant oil prospecting licence.~~

(Subt'd. by Cap. A178)

20. An oil prospecting licence shall not be granted in respect of any area of—

Size of area.

1/ Majlis Mesyuarat Kerajaan Negeri)

1/ five hundred square kilometres) (Am. by Cap. A178 - w.e.f.: 03-Aug-2018)

2/ twenty square kilometres)

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Oil Mining

(a) more than ~~1/ two hundred square miles~~; or

(b) less than ~~2/ eight square miles~~, save in cases where special exemption is granted by the ~~Governor in Council~~.

Comprehensive oil prospecting licence.

21. Subject to the provisions of section 6, the ~~Governor in Council~~ may grant a comprehensive oil prospecting licence in respect of two or more separate areas:

Provided that—

(a) they are situated reasonably close together; and

~~1/ two hundred square miles~~ (b) that the sum of such areas shall not exceed ~~1/ two hundred square miles~~.

Shape of area.

22. Each separate area in respect of which an oil prospecting licence is granted shall be, so far as possible, compact and shall either be limited by well marked permanent physical boundaries or be bounded by straight lines. The greatest length of any area for which an oil prospecting licence is granted shall not be more than three times the average width in the case of an area of ~~2/ eight square miles~~, or more than six times the average width in the case of an area of ~~1/ two hundred square miles~~. In the case of an area of intermediate size, such maximum ratio shall vary between three and six in proportion to the size of the area.

Period.

23. The initial term of an oil prospecting licence shall not exceed four years.

Renewal.

and on the recommendation of the Authority,

(Am. by Cap. A178-
w.e.f.: 03-Aug-2018)

24. The ~~Governor in Council~~ may, 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 of or parts thereof which comply with sections 20 and 22, for a further term of twelve months.

Working obligations.

25. The licensee shall in respect of the area or areas covered by each licence carry out with due diligence such scheme of prospecting, including such

geological or geophysical surveys, or programme of test drilling as shall be agreed between the ~~Chief Secretary~~ and the licensee:

~~/~~ Minister

Provided that—

(a) a scheme of prospecting or programme of test drilling or both to be carried out outside the licensed area may be agreed and accepted by the ~~Chief Secretary~~ as being in respect of such area if he is satisfied that the geological and geophysical information likely to be obtained therefrom will relate wholly or in part to such area, and if he is of opinion that such agreement and acceptance would not be contrary to the public interest; and

(b) in the event of more than one oil prospecting licence being granted to the same licensee, a programme of test drilling covering two or more licensed areas where the geological objective is the same for the purpose of determining whether commercial deposits of petroleum exist within those areas shall be agreed between the ~~Chief Secretary~~ and the licensee.

(Am:by Cap. A178- w.e.f. 03-Aug-2018)

26. The licensee shall pay—

(a) annually in advance a certain yearly rent; and

Certain
yearly
rent and
royalties.

(b) royalties, at such rates as may be provided for in the licence:

Provided that—

(i) the said royalties shall be assessed and paid in the manner provided in the licence; and

(ii) from the amount of royalties payable in respect of any one year of the term of an oil prospecting licence there shall be deducted the amount of the certain yearly rent actually paid in respect of that year.

PART IV

OIL MINING LEASES.

(Sub't'd. Cap. A178)

~~27. (1) The Governor in Council may grant an oil mining lease over the lands specified therein.~~

~~Governor in
Council may
grant oil
mining lease.~~

(2) An oil mining lease shall only be granted in respect of—

(a) an area which has previously been included either in an oil prospecting licence granted under this Ordinance to the applicant or in an oil mining lease granted to a former lessee; or

(b) an additional area adjoining that already held under an oil mining lease by the applicant.

Size of area.

28. An oil 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 Governor in Council.

(Subt'd. by Cap. A178)

Comprehensive oil mining lease.

29. Subject to the provisions of section 6, the Governor in Council may grant a comprehensive oil mining lease in respect of two or more separate areas:

Provided that—

(a) they are situated on the same geological structure or cover a group of geologically similar and related structures; and

(b) the sum of such areas shall not exceed one hundred square miles.

(Subt'd. Cap. A178)

Shape of area.

30. Each separate area in respect of which an oil mining lease is granted shall either be limited by well marked permanent physical boundaries or be laid out in a block or blocks bounded by straight lines between well defined points. The greatest length of any area for which an oil mining lease is granted shall not be more than three times the average width in the case of an area of four square miles or more than five times the average width in the case of an area of one hundred square miles. In the case of an area of intermediate size, such maximum ratio shall vary between three and five in proportion to the size of the area.

Survey at expense of applicant.

31. Before an oil mining lease is granted by the Governor in Council the applicant shall at his own expense cause a topographical survey, and where

Majlis Mesyuarat Kerajaan Negeri may grant oil mining lease

27. The Majlis Mesyuarat Kerajaan Negeri may in its discretion, upon the recommendation of the Authority, grant a mining lease to an applicant whether or not such applicant has been previously issued with an exploration licence or a prospecting licence under this Ordinance.

Size of area

28. An oil mining lease shall not, unless where the Majlis Mesyuarat Kerajaan Negeri shall in any special case otherwise direct, be granted in respect of any area of more than two hundred and fifty square kilometers or less than ten square kilometers.

(b) the sum of such areas shall not exceed two hundred and fifty square kilometers, unless where the Majlis Mesyuarat Kerajaan Negeri shall in any special case otherwise directs.

Survey at the expense of applicant

31.—(1) Subject to subsection (2), before an oil mining lease is granted under this Ordinance, the applicant shall at his own expense cause a topographical and border or perimeter survey, and where applicable a hydrographical survey, of the lands specified therein to be made to a scale normally required for oil mining purposes, and an environmental impact assessment study to be conducted under the Natural Resources and Environment Ordinance [Cap. 84 (1958 Ed.) and the recommendations or advice for environmental protection or management pursuant to such study, approved by the Natural Resources and Environmental Board.

(2) The Majlis Mesyuarat Kerajaan Negeri may issue a mining lease prior to the applicant fulfilling the requirements of subsection (1):

Provided that the lessee shall not commence any development work or mining in respect of which the lease has been granted until such environmental impact assessment report has been approved by the Natural Resources and Environmental Board.

Overriding control by the Authority

33A. The Authority may, from time to time issue directions or guidelines to the lessee on the exercise by the lessee of the liberties rights and privileges conferred by the lease, and without prejudice to the generality of the foregoing, such direction or guidelines may include—

(a) the collaboration by the lessee with any person or organization in the exercise of the liberties, rights and privileges under the lease;

(b) to submit for approval plans to the Authority for the division or sub-division of the area specified in the lease into blocks for the purpose of oil mining or other activities connected therewith;

(c) the entry or use of any land issued with a mining lease under the Minerals Ordinance, 2004 [Cap. 56]; and

(d) any other matters, not inconsistent with this Ordinance, which in the interests of the State, the lessee should comply or abide with in regard to the best practices for the oil and gas industry in the State.

Delegation by the Authority

33B. The Authority may, by notification in the *Gazette* delegate any of the powers, functions, duties or responsibilities conferred by this Ordinance to—

(a) the Minister;

(b) a committee formed by the Authority comprising of its members or any other persons named in the notification;

(c) any public officer; or

(d) any person.

Power to grant single licence and lease for oil exploration, prospecting and mining

33C. Notwithstanding anything provided in this Ordinance regarding the granting of oil exploration licence, oil prospecting licence and oil mining lease, the Majlis Mesyuarat Kerajaan Negeri may, in appropriate cases, grant one single licence and lease to provide for the rights to explore, prospect and mine oil, subject to the terms and conditions to be determined by the Majlis Mesyuarat Kerajaan Negeri.

(a)(i) where the lessee occupies or uses State Land or Reserved Land, to the Government an annual rent at such rate as may be determined by the Authority and stipulated in the lease;

(ii) where the lessee occupies or uses alienated land or land held under native customary rights, to the owner or occupier of such land compensation to be agreed upon with the owner or occupier thereof, and in the absence of such agreement, the compensation shall be determined by the Superintendent of Land and Survey having authority over in the locality where the land is situated; and

applicable a hydrographical survey, of the lands specified therein to be made to a scale normally ~~required for oil mining purposes.~~

(Sub'd. by Cap. A178)

32. The initial term of an oil mining lease shall not exceed thirty years, but the lease shall contain a clause permitting renewal for a further period not exceeding thirty years on the terms applicable to new leases at the date of renewal.

33. The lessee shall pay—

~~(a) annually in advance a certain yearly rent;~~
and

Certain
yearly rent
and
royalties.

(Sub'd. Cap. A178)

(b) royalties, at such rates as may be provided for in the lease:

Provided that—

(i) the said royalties shall be assessed and paid in the manner provided in the lease; and

(ii) from the amount of royalties payable in respect of any one year of the term of an oil mining lease there shall be deducted the amount of certain yearly rent actually paid in respect of that year.

33A., 33B. and 33C. ... Ins. by Cap. A178

PART V

~~CONTINENTAL SHELF~~ ~~MISCELLANEOUS.~~

~~/~~ upon recommendation by the Authority,

34.—(1) Notwithstanding anything in this Ordinance contained other than the provisions of section 3, ~~the Governor in Council shall have in respect of the Continental Shelf power—~~

Power of
Governor in
Council in
respect of
the Conti-
nental Shelf.

(Am. by Cap. A178
- w.e.f.: 03-Aug-2018)

(a) to grant an oil exploration licence for an initial term not exceeding four years, and a renewal thereof for a further term not exceeding two years;

(b) to grant an oil prospecting licence for an area or areas unlimited in any respect, and whether as to length, breadth or otherwise;

(c) to grant an oil prospecting licence for an initial term not exceeding eight years, and a renewal thereof for a further term not exceeding two years;

~~(d) to grant an oil mining lease for an area not more than half the area comprised in the precedent oil prospecting licence, or where the lease is granted under paragraph (b) of subsection (2) of section 27, for an area not more than that of the adjoining area held by the applicant under an oil mining lease; and~~

(Subt'd Cap. A178)

(e) to except an oil mining lease from the restrictive provisions of sections 29 and 30.

(2) In this section "oil exploration licence" includes an exploration licence of which one renewal has, or more than one renewal have, been granted.

new Parts VI and VII (ss.34A to 34G.) ... Ins: by Cap. A178

Minister
*Clerk of
Councils to
have power
to execute
licences and
leases
granted
under this
Ordinance.

35. The ~~Clerk of Councils~~ shall have power to execute in the name of, and on behalf of, the ~~Governor in Council~~, all such licences, leases and other documents as the ~~Governor in Council~~ shall direct to be executed for the purpose of granting a licence or lease under the provisions of this Ordinance.

(Am. by Cap. A178- w.e.f.:03-Aug-2018)

35A. Majlis ... Ins. by Cap. A178

Rules.

36.—(1) The ~~Governor in Council~~ may make rules generally for the purpose of carrying out the provisions of this Ordinance and, in particular, such rules may provide for—

(a) anything which is required by this Ordinance to be prescribed; [(b)]

(b) the appointment, duties, privileges and powers of officers to enforce the provisions of this Ordinance; [(c)]

(c) the prevention of fires in areas where oil mining is being carried on whether in Sarawak or on the Continental Shelf; [(d)]

*mining structures

(d) the establishment of safety areas around any ~~oil reserve installations~~ erected on the sea bed under Sarawak waters or on the Continental Shelf:

Provided that no safety area around an ~~oil mining installation~~ erected on the Continental Shelf shall exceed five hundred metres in radius; [(e)]

(e) the general safety, health, working conditions and welfare of persons engaged in oil mining whether in Sarawak or on the Continental Shelf; [(f)]

(Am. by Cap. A178 - w.e.f.:03-Aug-2018)

Cap. A178/2018 - w.e.f.: 03-Aug-2018

[s.34(1)—]

(d) to grant an oil mining lease for an area not more than the area stipulated in the precedent prospecting licence or where there is no precedent prospecting licence, of an area not exceeding one hundred square kilometers or such other limitation in size as may be determined by the Majlis Mesyuarat Kerajaan Negeri by a direction published in the *Gazette*;

PART VI

OFFENCES AND PENALTIES

General penalty

34A. Any person who by an act or omission contravenes any provision of this Ordinance or rules made hereunder, shall be guilty of an offence and shall, upon conviction, if no penalty is expressly provided for such an offence, be punished with a fine of not exceeding two hundred thousand ringgit or imprisonment for a term not exceeding five years or to both.

Offences committed by a body corporate

34B. Where a person charged with an offence under this Ordinance or any rules made hereunder is a body corporate, every person who at the time of the commission of the offence is a director or officer of that body corporate may be charged jointly in the same proceeding with the body corporate, and in the event the body corporate is convicted of the offence charged, every such director or officer shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or he had taken all reasonable measures or steps to prevent its commission.

Power of arrest, search, seizure and investigation

34C.—(1) A person authorised in writing by the Authority (in this section referred to as an “authorised officer”) shall have the power to conduct an investigation where there is reason to believe that an offence or contravention of any provision of this Ordinance or rules made hereunder has been committed.

(2) The authorised officer shall have all the powers of a police officer of whatever rank as provided under the Criminal Procedure Code [Act 593] in relation to arrest, search, seizure and police investigation into criminal offences, but such powers shall be in addition to the powers provided under this Ordinance and not in derogation thereof.

(3) Upon completion of the investigation, the authorised officer shall forthwith give all information relating to the investigation to the Authority.

(4) ... cont' /-

overleaf...

(4) Any person who—

(a) hinders, impedes, obstructs or prevent an authorised officer from carrying any investigation into any offence under this section;

(b) assaults or intimidates or threatens any authorised officer carrying out investigation under this section;

(c) denies or prevents entry of an authorised officer into any premises, facility or land used for purposes of this Ordinance, to carry out investigation into an offence or suspected offence under this Ordinance or rules made hereunder; or

(d) knowingly or wilfully provide false information or documents to an authorised officer carrying out investigation under this section,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding twenty thousand ringgit or imprisonment for a term not exceeding six months or to both.

Prosecution

34D. The prosecution of any offence under this Ordinance or rules made hereunder shall be initiated and conducted by the Public Prosecutor, a Deputy Public Prosecutor or by any person authorised by the Public Prosecutor under section 377 of the Criminal Procedure Code [Act 593].

Compounding of offences

34E.—(1) The Authority or any officer authorised by the Authority by notification in the *Gazette*, may, subject to rules made under section 36, accept from any person who has committed an offence under this Ordinance or rules made hereunder a sum not exceeding one half of the maximum amount of the fine provided for the offence.

(2) All sums of money received under this section shall be credited to the State Consolidated Fund.

34F. --- cont'/_

/cont'.

PART VII

MISCELLANEOUS

Amendment of legislation

34F. Section 2(1) of the Minerals Ordinance, 2004 [Cap. 56], is amended by substituting the words “other than mineral oils” in line one of the definition of “minerals” with a comma and the words “including petroleum and natural gas,”.

Protection against suits and legal proceedings

34G. No action or proceedings or prosecution shall be brought, instituted or maintained in any court against the Authority or any person authorised by him to act under this Ordinance in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his functions, powers and duties under this Ordinance or rules made hereunder.

Cap. A178/2018 – w.e.f.: 03-Aug-2018

Revocation

35A. Majlis Mesyuarat Kerajaan Negeri may revoke any licence or lease granted under this Ordinance, upon the recommendation of the Authority, where the licensee or lessee has committed a breach of any of the provision of this Ordinance or of any of the terms or conditions stipulated in the licence or mining lease and the licensee or lessee had failed or neglected without reasonable cause to remedy such breach within a period of sixty days after receipt of a notice from the Authority to remedy the breach.

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(g) the conduct of any environmental impact assessment report relating to oil mining in the area to be issued with a mining lease and the monitoring of activities of a lessee which could have an adverse impact on the environment;

(h) the construction, erection, maintenance and decommissioning of mining structures on land onshore and in the continental shelf; and

(i) the keeping of a Register, by the Authority, of licences and leases issued under this Ordinance, the assignment and transfer of any licence and lease and any contract or matter for which approval is required under this Ordinance and the fees payable for inspection of the Register and making any extracts thereof.

Cap. A178/2018 – w.e.f.: 03-Aug-2018

(schedule)

(3) If application is by a company—

(a) Principal place of business

(b) If principal place of business is outside Sarawak, name and address of duly authorized agent in Sarawak

(c) Nature of business

(d) Names and nationality of all directors

(e) Names of all shareholders

(f) A copy of the company's constitution or memorandum and article of association

(10) If the applicant is a company registered or incorporated outside Malaysia, to submit reason why it should be exempted from the provision of section 11(1).

(11) If the applicant intends to enter into contracts with third parties to explore, prospect and produce petroleum, to identify such third parties.

(f) the amendment of the ~~First~~ ^{*}Schedule; [(g)]
(g), (h) and (i) ... Ins. by Cap. A178

Cap. 76.

(2) Any rules made in pursuance of paragraph (e) of subsection (1) may provide that such rules shall be in addition to or in substitution for the provisions of the Labour Ordinance, and any rules made thereunder, relating to the matters specified in that paragraph.

* ~~First~~ SCHEDULE

(Section 5(1))

* [Deleted by Cap. A178-
w.e.f.: 03-Aug-2018]

APPLICATION FORM

*Application for an Oil Exploration Licence,
an Oil Prospecting Licence or an Oil
Mining Lease.*

- (1) Name(s) of Applicant(s) in full
- (2) If application is by an individual or individuals—
 - (a) Address
 - (b) Nationality
 - (c) Occupation
- (3) ~~If application is by a company—~~ (Subt'd. by Cap. A178)
 - (a) Principal place of business
 - (b) If principal place of business is outside Sarawak, name and address of duly authorized agent in Sarawak
 - (c) Nature of business
 - (d) Names of directors
 - (e) Names of principal shareholders Nationality
Amount of shareholding
- (4) State whether an oil exploration licence, an oil prospecting licence or an oil mining lease is required and whether the application is in respect of ~~Crown~~ land or alienated land or both / State
- (5) Period for which licence or lease is required.
- (6) Situation and approximate size of the area for which application is made.
- (7) Brief particulars of previous experience in oil prospecting or oilfield development work ~~whether~~ in Malaysia or elsewhere
- (8) Names and qualifications of technical experts or advisers.
- (9) State amount of capital for operations under the licence or lease applied for—
 - (a) at present available
 - (b) which ~~the~~ applicant can make available ^{in future} and the source
- (10) ~~If the applicant is an alien or a company incorporated outside Her Majesty's dominions—~~ (Am. Cap. A178-
w.e.f.: 03-Aug-2018)
- (11) If the applicant ... Ins. Cap. A178 (Subt'd. Cap. A178)

- (a) state full particulars of the company to be incorporated by the applicant in Sarawak or in some other part of ~~Her Majesty's dominions~~ / Malaysia for the purpose of receiving the grant of and exploiting any licence or lease which may be granted, including particulars similar to those specified in items (3) (d) and (8) above and the amount of the capital proposed; or
- (b) the reasons for which it is submitted that the alien or company should be exempted under subsection (2) of section 11 of the Oil Mining Ordinance, from complying with the provisions of subsection (1) of that section.

I/WE hereby declare that all the foregoing particulars are correct.

Date

(Signature(s) of applicant(s)).

(If the applicant is a company state capacity in which form is signed).

SECOND SCHEDULE

(Section 10).

[Deleted by Cap. A178-
w.e.f.:03-Aug-2018]

RECIPROCITY CONDITIONS.

If the licensee being a company shall be or become controlled directly or indirectly by an alien or a company incorporated outside Her Majesty's dominions or if the licensee shall with the consent in writing of the Governor in Council assign the rights granted by this licence in respect of the said lands or any part thereof to a company controlled directly or indirectly by an alien or by a company incorporated outside Her Majesty's dominions then and in any such case—

(a) some of the directors and the Chief Local Representative shall be British subjects;

(b) at all times during the term hereby granted or any renewal thereof a majority of the persons employed by the licensee in or about the said lands in connection with the exercise of the rights granted by this licence shall be British subjects.

This licence shall be determined if the licensee shall be or become 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 Her Majesty's dominions or companies incorporated in that country controlled directly or indirectly by British subjects or companies incorporated in Her Majesty's dominions, to acquire hold and operate petroleum concessions on conditions which, in the opinion of the Secretary of State, are reasonably comparable with the conditions upon which such rights are granted to nationals of that country with the addition of conditions corresponding to those imposed by this clause and the immediately preceding clause hereof.

LIST OF AMENDMENTS

