

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 30 of 1962

**An Act to Amend “The Petroleum Acts, 1923 to 1958,”
in certain particulars**

[ASSENTED TO 18TH DECEMBER, 1962]

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as “*The Petroleum Acts Amendment Act of 1962.*”

(2) **Principal Act.** “*The Petroleum Acts, 1923 to 1958,*” are in this Act referred to as the Principal Act.

(3) **Collective title.** The Principal Act and this Act may be collectively cited as “*The Petroleum Acts, 1923 to 1962.*”

2. (1) **Amendments of s. 3.** Section three of the Principal Act is amended by—

(a) inserting after the definition “Barrel” the following definition:—
““Casinghead petroleum spirit”—Any liquid hydrocarbons obtained from natural gas by separation or by any chemical or physical process;”;

(b) omitting the definition "Crown land" and inserting in its stead the following definitions:—

"Crown land"—All land in Queensland except land which is for the time being—

(a) Lawfully granted or contracted to be granted in fee-simple by the Crown; or

(b) Subject to any lease or license lawfully granted by the Crown provided that land held from the Crown under occupation license shall be deemed to be Crown land:

The term includes land reserved for or dedicated to public purposes (and includes specifically all State Forests, Timber Reserves, National Parks and Scenic Areas under "The Forestry Act of 1959", camping reserves and reserves for aboriginals) other than land in fee-simple.

"Crude oil"—Petroleum oil in its natural state before it has been refined or otherwise treated but from which water and other foreign substances may have been extracted;";

(c) inserting after the definition "Drilling" the following definition:—

"Land"—includes land covered by water, and whether by the sea or otherwise;";

(d) inserting after the definition "Lessee" the following definitions:—

"License"—A license in respect of a pipeline granted under this Act and in force for the time being;

"Licensee"—The holder of a license;";

(e) inserting after the definition "Mark the land" the following definitions:—

"Minister"—The Minister for Development, Mines, Main Roads and Electricity, or other Minister of the Crown for the time being charged with the administration of this Act;

"Natural gas"—Gas consisting primarily of hydrocarbons, and obtained from bore-holes or from crude oil;";

(f) inserting after the definition "Petroleum deposits" the following definition:—

"Pipeline"—A system of pipes used for conveying petroleum and all ancillary equipment and works connected therewith, including flow lines from wells, gathering lines and main lines and installations in connection therewith such as tanks, reservoirs, pumps, racks and loading facilities, structures supporting the line, pump houses, and apparatus to afford protection against corrosion:

The term does not include flare lines and similar pipelines at wells being drilled for petroleum;"; and

(g) omitting the definition "Private land" and inserting in its stead the following definition:—

"Private land"—All land other than Crown land;".

(2) Paragraph (c) of subsection (1) of this section shall be deemed to have come into operation on the twelfth day of November, one thousand nine hundred and twenty-three.

3. Amendment of s. 4. Section four of the Principal Act is amended by adding the following paragraphs:—

“Nothing in *“The Explosives Acts, 1952 to 1961,”* shall apply to the storage and use of explosives in connection with the exploration for and production of petroleum under and subject to this Act.

To the extent necessary to give operation and effect to the provisions of *“The Amoco Australia Pty. Limited Agreement Act of 1961”*, and the agreement to which that Act relates, and to ensure that no provision of this Act shall affect or prejudice in any way that Act or that agreement, it is hereby declared that every provision of this Act shall be read subject to *“The Amoco Australia Pty. Limited Agreement Act of 1961”*, and the agreement to which that Act relates.”

4. Amendment of s. 9A. Section 9A of the Principal Act is amended by adding the following subsection:—

“(5) Notwithstanding that pursuant to a subsisting Proclamation under subsection (2) of section nine of this Act, any land an authority to prospect whereon has been granted, is proclaimed as being not open to permit or lease—

- (a) Upon application by the holder of the authority to prospect, a permit may be granted in respect of such land or part thereof; or
- (b) Upon the holder of the authority establishing to the satisfaction of the Governor in Council that payable deposits of petroleum have been discovered within the limits of such land or any part thereof and making application in that behalf, a lease may be granted in respect of such land or part thereof.”

5. Repeal of and new s. 10A. Section 10A of the Principal Act is repealed and the following section inserted in its stead:—

“[10A.] **Qualification of companies registered in Queensland.** Notwithstanding anything to the contrary contained in section ten of this Act, or in any other Act, but subject to the provisions of this section—

- (i) Any company (as defined by *“The Companies Act of 1961”*) registered and incorporated in Queensland pursuant to *“The Companies Act of 1961”*, or pursuant to any corresponding previous enactment; or
- (ii) Any foreign company (as defined by *“The Companies Act of 1961”*) registered in Queensland pursuant to Division III of Part XI of *“The Companies Act of 1961”*, or pursuant to any corresponding previous enactment,

shall, subject to this Act, upon such registration as aforesaid be qualified to apply for and hold a permit or lease, notwithstanding the fact that any of the members or shareholders of such company or foreign company are not persons qualified under paragraph (i) or paragraph (v) of the said section ten to apply for and hold a permit or lease; and the provisions of this Act and *“The Companies Act of 1961”*, either wholly or with all such modifications thereof or additions thereto as are deemed by the Governor in Council to be necessary or convenient, either generally or to meet any particular circumstances, shall apply and extend accordingly.

Any such modifications or additions may be made by the Governor in Council by Order in Council.

Where any such company or foreign company is registered as aforesaid the registrar of companies shall, upon request, forward to the Minister a certified copy of the certificate of the registration of the company or, as the case may be, foreign company, and such certified copy shall be conclusive evidence of the fact of such registration.

Regulations may be made to give full effect to the objects and purposes of this section, and the provisions of section sixty-five of this Act shall apply and extend accordingly.

Every Order in Council and every regulation made pursuant to section 10A of "*The Petroleum Acts, 1923 to 1958*," and in force immediately prior to the commencement of "*The Petroleum Acts Amendment Act of 1962*", shall continue in force under and subject to this Act in all respects as if made under and pursuant to this section."

6. Repeal of and new s. 28. The Principal Act is amended by repealing section twenty-eight and inserting in its stead the following section:—

"[28.] Lease to holder of authority to prospect or permittee. (1) Upon application in that behalf by a holder of an authority to prospect or permittee—

(a) Who establishes to the satisfaction of the Governor in Council that payable deposits of petroleum have been discovered within the limits of the land covered by the authority to prospect or permit; and

(b) Who is a qualified person as hereinbefore provided in this Act, the Governor in Council shall, subject to subsection (2) of this section, grant to such holder or permittee a lease or, as the case requires, leases of the lands containing the payable deposits of petroleum and chosen by such holder or permittee from the lands in respect whereof the authority to prospect or permit was granted.

(2) The lands in respect of which a lease is granted under the last preceding subsection—

(a) Shall not exceed one hundred square miles in area;

(b) Unless otherwise approved by the Governor in Council shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude; and

(c) Shall be described and marked on a plan in such manner that they can be readily identified.

(3) The Governor in Council may, if in his opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.

(4) The applicant for the lease shall, when and as required by the Minister, and may at his option (but in either case at his own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.

When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease."

7. Repeal of and new s. 29A. The Principal Act is amended by repealing section 29A and inserting in its stead the following section:—

“[29A.] Lease to person other than a holder of an authority to prospect or permittee. (1) Upon application in that behalf made as prescribed by subsection (6) of this section by a person—

(a) Who establishes to the satisfaction of the Governor in Council that he has discovered payable deposits of petroleum within the limits of the land specified in the application; and

(b) Who is a qualified person as hereinbefore provided in this Act, the Governor in Council shall, subject to subsections (2), (3), (4) and (5) of this section, grant to such person a lease of the lands specified in the application.

(2) An applicant under this section shall not be granted a lease of—

(a) Land comprised in a subsisting authority to prospect, permit or lease (whether granted before, on or after the date of the enactment of this section);

(b) Land comprised in an area which, pursuant to a subsisting Proclamation under subsection (2) of section nine of this Act, is proclaimed as being not open to permit or lease;

(c) Land the area whereof exceeds one hundred square miles.

(3) Unless the Governor in Council otherwise approves, the land in respect whereof the application is made shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude.

(4) The Governor in Council may, if in his opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.

(5) The land in respect whereof the application is made shall be described and marked upon a plan in such manner that it can be readily identified.

The applicant shall, when and as required by the Minister, and may at his option (but in either case at his own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.

When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease.

(6) An application under this section shall be made to the Warden at Brisbane, and shall be heard by him in open court on a date not earlier than two months after the making thereof.

The said Warden shall fix such date and shall give not less than fourteen days prior public notice thereof by advertisement in a newspaper published in Brisbane and in a newspaper circulating in the locality in which the land specified in the application is situated.

The said Warden may in open court adjourn the hearing of the application from time to time.

The said Warden may give to such persons as he deems advisable notice of the date fixed by him for hearing the application and of any adjournment of such hearing by him.

(7) The said Warden shall make or cause to be made a record of the evidence heard by him and shall transmit such record to the Minister together with a finding as to whether or not the applicant has proved to his satisfaction that the applicant has discovered payable deposits of petroleum within the limits of the land specified in the application.

Such finding shall not be binding upon the Governor in Council or the Minister."

8. Repeal of and new s. 30. The Principal Act is amended by repealing section thirty and inserting in its stead the following section:—

"[30.] Security in respect of leases. (1) Before the grant of a lease, the applicant therefor shall deposit with the Minister such security (being to the amount of not less than five thousand pounds) as the Minister shall fix for the compliance by the lessee with the provisions of this Act and of the terms and conditions of the lease and for the payments of any compensation or damages which may be or become payable by the lessee to any owner or occupier of improved land or private land comprised in the lease.

(2) (a) The security may be in the form of cash deposit banker's cheque or bank draft payable to the Treasurer of the State of Queensland (hereinafter in this section referred to as "the Treasurer"), Commonwealth Treasury Bonds or Inscribed Stock, guarantee, indemnity, or bond in a form approved by the Crown Solicitor for the State (hereinafter in this section referred to as "the Crown Solicitor"), by a bank, bonding, or insurance company approved by the Crown Solicitor, or any other security approved by the Crown Solicitor, or partly in one form and partly in another form or other forms.

The Crown Solicitor may at any time upon application by the lessee, through the Minister, approve of the substitution for any security held under this subsection of other security in such form as may be approved by the Crown Solicitor.

(b) If a deposit is in such form as will require exchange to be paid in Brisbane, then such exchange shall when necessary be added to the amount thereof.

(c) If the security is in the form of Inscribed Stock or other security not transferable by delivery it shall be accompanied by a duly executed and stamped transfer of such stock or security to the Treasurer.

(d) When the deposit is in cash it shall be placed in an interest bearing bank Trust Account in the name of the Treasurer to be operated on only in accord with the provisions of this Act.

(e) Interest, if any, accruing on the security deposit shall be made available to the lessee when collected by the Treasurer.

(3) If any security furnished under this section shall become unacceptable to the Minister or the Crown Solicitor or if any surety shall fail to furnish reports as to his financial condition, from time to time, as

requested by the Minister, the lessee shall, within thirty days of demand, furnish such additional or alternative security as may be required by the Minister or the Crown Solicitor up to an amount equal to the amount of the security.

(4) (a) Upon the breach by the lessee of any provision of this Act or any term or condition of the lease, so much of the security deposited as the Minister shall determine shall be forfeited to the Crown.

(b) If the lessee fails to pay any amount of compensation or damages recovered against the lessee by an owner or occupier of improved land or private land included in the lease, so much of the security deposited as is necessary to pay such amount of compensation or damages may, by direction of the Minister, be forfeited to the Crown and, in such case, such amount of compensation or damages shall be paid to the owner or occupier aforementioned entitled thereto from Consolidated Revenue.

(5) At the expiration of one year following upon the termination of a lease (whether by effluxion of time, surrender, or forfeiture of the lease) the Minister shall refund to the person who was the lessee immediately prior to the termination of the lease, the security held in respect of the lease immediately prior to the date of such refund."

9. Amendment of s. 31. Section thirty-one of the Principal Act is amended by—

(a) Omitting from paragraph (b) the word "drill" and inserting in its stead the word "prospect"; and

(b) inserting in paragraph (b) after the word "waterways" the following words and brackets:—

"(including any pipelines for conveying water)".

10. New s. 33. The Principal Act is amended by inserting after section thirty-two the following section:—

"[33.] **Reservations, conditions and covenants of lease.** (1) Every lease shall contain the following reservations, covenants and conditions, namely:—

(a) A reservation of power to authorise mining on the land for any purpose other than the production or obtaining of petroleum or petroleum products, but not such as to interfere with, encroach upon, or endanger operations for producing or obtaining petroleum;

(b) A covenant by the lessee to pay the prescribed rent in accordance with this Act;

(c) A covenant by the lessee to pay the prescribed royalty in accordance with this Act;

(d) A covenant by the lessee to work the land demised by the lease in accordance with recognised good oilfield practice and in compliance with this Act, unless exemption or partial exemption is granted in such manner as may be prescribed;

(e) A covenant by the lessee that, if directed by the Minister not to dispose of any petroleum or petroleum products for use or consumption outside Australia, he will not so dispose of any petroleum or petroleum products;

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- (f) A covenant by the lessee to comply with the provisions of this Act;
 - (g) A covenant by the lessee to use the land continuously and *bona fide* exclusively for the purpose for which it is demised and in accordance with this Act, unless prevented from so doing by circumstances beyond his power and control;
 - (h) A covenant by the lessee not to assign, transfer, sublet, mortgage or make the subject of any trust the lease or the land or any part thereof otherwise than in accordance with this Act;
 - (i) A condition for the forfeiture of the lease in the event of any breach of any covenant or condition by the lessee and the failure of the lessee completely to remedy the same within three months (or such further time as the Minister may in his discretion, allow) after the Minister shall have given to the lessee notice in writing to make good the same.

(2) When an application for a lease has been approved and notwithstanding that the instrument of lease has not been executed and whether or not the applicant shall have entered upon the land as provided for in this Act, the applicant and his assigns shall be deemed to have entered into the covenants and to have accepted the reservations and conditions provided for in subsection (1) of this section and shall in all respects be bound thereby."

11. Amendment of s. 34. Section thirty-four of the Principal Act is amended by omitting subsection (1) and inserting in its stead the following subsection:—

"(1) (a) Every lease shall be continuously worked for production of petroleum from it.

(b) The lessee shall each year expend on the lease in respect of drilling for petroleum or such other work as the Minister may in writing approve a total sum of money calculated at the rate of two thousand pounds per square mile for each and every square mile or part thereof contained in the lease.

Such total sum shall be reduced by deducting from it the total in pounds of the selling value of all the crude oil, casinghead petroleum spirit and natural gas produced from the lease in that year, such selling value to be computed in accordance with section 40A of this Act.

(c) The Minister may grant exemption in writing from the requirements of paragraph (b) of this subsection for such period and under such conditions as he may fix.

(d) If a conservation authority appointed under this Act restricts production from the lease then the selling value mentioned in paragraph (b) of this subsection shall be determined on production that, in the opinion of the conservation authority, reasonably could have been expected from the lease had production not been so restricted."

12. Amendment of s. 35. Section thirty-five of the Principal Act is amended by omitting paragraph (iii) and inserting in its stead the following paragraph:—

"(iii.) Full information as to all work done in exercise of the rights conferred by the lease, all expenditure thereon, and all results obtained."

13. Repeal of s. 36. The Principal Act is amended by repealing section thirty-six.

14. Amendments of s. 37. Section thirty-seven of the Principal Act is amended by—

(a) omitting the words “private land or improved land comprised within the land demised” and inserting, in their stead, the words “any of the land demised”; and

(b) by adding to paragraph (iii) the following proviso :—

“Provided that the foregoing provisions of this paragraph (iii.) shall not apply in relation to any vacant Crown land except in so far as the Minister, in relation to any such land contained in a lease, by notice in writing to the lessee concerned, so directs.”

15. Repeal of and new s. 41. Section forty-one of the Principal Act is repealed and the following section inserted in its stead:—

“**[41.] Assignment, &c., of lease.** (1) No permit or lease or interest in such permit or lease shall be directly or indirectly assigned, transferred, sublet, mortgaged, or made the subject of any trust, except with the prior consent of the Minister, and any such dealing with such permit or lease made without such consent shall be void.

The Minister may, upon application for consent thereto, require such information concerning any proposed such dealing as he considers necessary or desirable.

The Minister shall not be bound to consent to any such dealing.

A mere right to receive a permit or lease is not capable of being dealt with as aforesaid.

(2) Where any lease or any interest in such lease has, with the consent of the Minister, pursuant to the last preceding subsection, been sublet, mortgaged, or made the subject of any trust, and the Minister gives to the lessee notice in writing to make good any breach of any covenant or condition as referred to in paragraph (i) of subsection (1) of section thirty-three of this Act, the Minister shall cause a copy of such notice to be forwarded to any sublessee, mortgagee, or trustee concerned.”

16. Repeal of and new s. 45. The Principal Act is amended by repealing section forty-five and inserting in its stead the following section:—

“**[45.] Refineries and pipelines.** (1) (a) The Governor in Council may grant to any person permission in writing to construct and operate an oil refinery, subject to such terms and conditions as to the construction, control, conduct, management and operation of such refinery as the Governor in Council deems fit.

The permission may contain a condition for the payment of fees in respect of the permission on such periodical or other basis as the Governor in Council deems fit.

Any holder of a permission granted pursuant to this subsection may construct and operate an oil refinery subject to the terms and conditions subject to which such permission is granted.

Such conditions may include a condition that the permission may be cancelled by the Governor in Council for failure by the holder of the permission to comply with any of the terms or conditions to which the permission is subject or in such other circumstances as are specified in such condition, and that cancellation may be imposed by the Governor in Council for any such failure notwithstanding that he has not imposed it in respect of any prior such failure.

The permission may contain a provision that it shall not be cancelled for a breach of any specified term or condition if the breach shall have been remedied within a specified time after the Minister shall have given to the holder of the permission notice of the breach.

The liability to cancellation of the permission pursuant to such condition shall be in addition to and not in substitution for the liability imposed by paragraph (b) of this subsection.

(b) If any holder of a permission granted pursuant to this subsection fails to comply with any term or condition subject to which such permission is granted he shall forfeit and pay to the Crown the sum of one thousand pounds per day for each and every day during which such failure continues.

Any amount of moneys payable to the Crown under this paragraph shall be recoverable and may be recovered as a debt due to Her Majesty by the Crown pursuant to the provisions of "*The Crown Remedies Acts, 1874 to 1956*," by action in any court of competent jurisdiction against the person granted the permission in question.

(c) The institution by the Crown of proceedings to recover any moneys payable to it under this subsection by a holder of a permission granted pursuant to this subsection in respect of his failure to comply with any term or condition to which such permission is subject, shall not prejudice or affect the right of the Crown to recover any further sums which may become forfeited and payable to it by reason of the continuance of such failure.

The Crown may, at its option, institute proceedings to recover part only of any sum forfeited and payable to it under this subsection and, in such case, the Crown shall be deemed to have abandoned the excess.

In any such proceedings evidence shall not be led or admitted proving or tending to prove that the amount in issue is a penalty and, as such, is unreasonable or excessive.

(2) The Governor in Council may, by Order in Council, grant to any person (hereinafter in this subsection referred to as "the grantee") permission in writing to enter upon the lands described in such permission, and upon any other lands giving necessary access to such lands, for the purposes of making any investigations, including any surveys, deemed by the grantee necessary or desirable in relation to the construction, or proposed or contemplated construction of a pipeline on, over, or under any of such lands.

The Order in Council shall contain a description, sufficient in the opinion of the Governor in Council to identify the same, of the lands the subject of the permission.

Such description may be by means of or supplemented by a plan.

The Governor in Council may grant such permission subject to such conditions as he deems fit.

Subject to such conditions as aforesaid, the grantee and any person authorised in writing by him may, during the currency of such permission, with such assistants, and with such vehicles and things as he or any person so authorised deems necessary or convenient for the carrying out of the purposes of such entry or re-entry, enter and re-enter from time to time upon the lands the subject of the permission, and make such investigations, including surveys, as he deems necessary or desirable in relation to the construction, or proposed or contemplated construction of a pipeline on, over, or under any of such lands.

The grantee shall make compensation in accordance with this Act to the owner of any private land or the holder under the Crown of any Crown land or, in the case of either private land or Crown land, to any person in lawful occupation thereof, in respect of any damage occasioned to such owner, holder, or occupier or, in the case of unoccupied Crown land, to the Crown in respect of any damage occasioned to any improvements on such Crown land, by such entry or re-entry upon the land or by the carrying out thereon of the purposes of the entry or re-entry.

(3) (a) The Governor in Council may grant to any person a license for the construction and operation of a pipeline, subject to such terms and conditions as to the construction, control, conduct, management and operation of such pipeline as the Governor in Council deems fit.

The license may contain a condition for the payment of fees in respect of the license on such periodical or other basis as the Governor in Council deems fit.

Such license shall contain a description, sufficient in the opinion of the Governor in Council to identify the same, of the lands on, over, or under which a pipeline may, in accordance with the license, be constructed.

Such description may be by means of or supplemented by a plan.

The grant of a license under this subsection shall be notified in the *Gazette* and a plan showing, by reference to the lands on, over, or under which a pipeline may, in accordance with the license, be constructed, the route of the pipeline shall be exhibited as the Minister may direct.

(b) The Governor in Council may at any time during the currency of a license, by Order in Council declare that such license shall be subject (in addition to all terms and conditions subject to which the license was granted) to the express condition that the licensee will accept and discharge the obligations of a common carrier, and, to that extent, will transport for hire by means of the pipeline concerned petroleum the property of any other person or persons.

If any licensee fails to comply with the express condition aforementioned (the Governor in Council having by Order in Council declared that the license is subject to such express condition) the Governor in Council may, by Order in Council, cancel the license:

Provided that where a license or any land or any easement or right of way upon any land acquired for the purposes of a license has, with the consent of the Minister pursuant to subsection (4) of this section been leased, subleased, or mortgaged, or made the subject of any trust, the Governor in Council shall not cancel such license until after notice to any lessee, sublessee, mortgagee, or trustee concerned.

(c) A license granted under this subsection may include a condition that the license may be cancelled by the Governor in Council for failure by the licensee to comply with any of the terms or conditions to which the license is subject or in such other circumstances as are specified in such condition and that cancellation may be imposed by the Governor in Council for any such failure notwithstanding that he has not imposed it in respect of any prior such failure.

The license may contain a provision that it shall not be cancelled for a breach of any specified term or condition (including the express condition referred to in paragraph (b) of this subsection) if the breach shall have been remedied within a specified time after the Minister shall have given to the licensee, or to any mortgagee of the license, or both of them, notice of the breach.

(d) The liability to a cancellation of the license pursuant to the provisions of paragraphs (b) or (c) of this subsection shall be in addition to and not in substitution for the liability imposed by paragraph (e) of this subsection.

(e) If any licensee fails to comply with the express condition referred to in paragraph (b) of this subsection (the Governor in Council having by Order in Council declared that the license is subject to such express condition) or with any other term or condition to which the license is subject he shall forfeit and pay to the Crown the sum of one thousand pounds per day for each and every day during which such failure continues.

Any amount of moneys payable to the Crown under this paragraph shall be recoverable and may be recovered as a debt due to Her Majesty by the Crown pursuant to the provisions of "*The Crown Remedies Acts, 1874 to 1956*," by action in any court of competent jurisdiction against the licensee.

(f) The institution by the Crown of proceedings to recover any moneys payable to it under this subsection by a licensee in respect of his failure to comply with any term or condition to which the license is subject, shall not prejudice or affect the right of the Crown to recover any further sums which may become forfeited and payable to it by reason of the continuance of such failure.

The Crown may, at its option, institute proceedings to recover part only of any sum forfeited and payable to it under this section and, in such case, the Crown shall be deemed to have abandoned the excess.

In any such proceedings evidence shall not be led or admitted proving or tending to prove that the amount in issue is a penalty and, as such, is unreasonable or excessive.

(4) No permission granted under subsection (1) of this section or license granted under subsection (3) of this section, or land, or easement or right of way upon any land, acquired for the purposes of such permission or license shall be directly or indirectly assigned, transferred, leased, subleased, mortgaged, or made the subject of any trust except with the prior consent of the Minister, and any such dealing with such permission, license, land, easement, or right of way made without such consent shall be void.

The Minister may, upon application for consent thereto, require such information concerning any proposed such dealing as he considers necessary or desirable.

The Minister shall not be bound to consent to any such dealing.

Where any license has been assigned or transferred to any other person pursuant to this subsection the assignee or transferee shall, immediately upon the completion of such assignment or transfer, be for all the purposes of this Act the licensee in respect of that license."

17. New ss. 45A, 45B, 45C, 45D and 45E. The Principal Act is amended by inserting after section forty-five the following sections:—

"[45A.] **Construction, &c., of pipeline.** (1) A licensee shall, as soon as practicable after the grant of the license, make all proper endeavours to acquire by agreement with owners, holders and occupiers all rights required by him in respect of lands (other than Crown lands) for the purposes of the pipeline.

(2) Notwithstanding anything contained in "*The Land Act of 1962*" or in any other Act, the Governor in Council may grant to a licensee any lease or easement or right of way which is required for the pipeline in respect of any Crown land.

The grant shall be for the duration of the license, and shall be subject to such other terms and conditions as the Governor in Council may impose and set out in the grant, and to such other terms and conditions as may be prescribed by the regulations.

(3) A licensee may, subject to this Act, construct, maintain and use a pipeline on, over, or under any land described in the license which has been acquired, or an easement or right of way upon which has been acquired by the licensee for the purposes of the pipeline, and on, over, or under any railway, road and tramway and in, on, over, through, or across any waterway (including any foreshore or land referred to in subsection (3) of section 45C of this Act).

(4) A licensee may, subject to this Act, and with the prior approval of the Governor in Council, construct, maintain and use a pipeline on, over, or under any land described in the license and referred to in the approval, notwithstanding that at the time of such construction, maintenance, or use, the licensee has not acquired any other right pertaining to or any title to the land in question.

Any such approval may be given by the Governor in Council by Order in Council.

[45B.] **Acquisition of land for pipeline purposes.** (1) A licensee shall, as soon as practicable after obtaining the approval of the Governor in Council under subsection (4) of section 45A of this Act, take all such steps as are necessary to acquire, in accordance with this section, the land, or a lease of or an easement or right of way upon the land the subject of such approval.

(2) Any land or any easement or right of way upon any land referred to in an approval of the Governor in Council under subsection (4) of section 45A of this Act, which is a holding or part of a holding under "*The Land Act of 1962*", and which is required for the pipeline may be resumed by the Governor in Council under and in accordance with such lastmentioned Act.

The cost of such resumption and the compensation payable consequent thereon shall be forthwith paid by the licensee to the Minister.

Upon such payment the Governor in Council may deal with such land or easement or right of way in accordance with subsection (2) of section 45A of this Act.

Before resuming such land or easement or right of way as aforesaid the Governor in Council may require the licensee to deposit with the Minister such moneys or other securities as are, in the opinion of the Minister, sufficient to ensure the payment by the licensee of sums to be paid by him as aforesaid.

(3) All lands other than Crown lands and all easements and rights of way (other than easements and rights of way in respect of Crown lands) referred to in an Order in Council under subsection (4) of section 45A of this Act which are required for the pipeline may be resumed and acquired by the Co-ordinator-General of Public Works from the owners thereof or the persons having any interest therein under the provisions of "*The State Development and Public Works Organisation Acts, 1938 to 1958*," to the same extent as if the pipeline were works authorised by the Governor in Council under those Acts to be carried out by the Co-ordinator-General and the provisions of those Acts shall apply and extend accordingly except that any lands taken shall vest in the Crown and any easements and rights of way taken shall be in the name and for the benefit of the licensee.

All the purchase money and compensation payable in respect of lands or easements or rights of way so acquired together with all expenses incurred by the Co-ordinator-General in effecting such resumption or acquisition shall forthwith be paid by the licensee to the Co-ordinator-General and upon such payment the lands resumed or acquired shall be granted to the licensee.

Before resuming or acquiring such lands or easements or rights of way as aforesaid the Co-ordinator-General may require the licensee to deposit with him such moneys or other securities as are in his opinion sufficient to ensure the payment by the licensee of sums to be paid by him as aforesaid.

(4) If the Governor in Council, pursuant to subsection (3) of section forty-five of this Act, cancels the license, or if the licensee fails to comply with any term or condition of the grant under this section or under section 45A of this Act of any lease or easement or right of way, the Governor in Council may by Order in Council cancel such grant.

(5) Where any land or any easement or right of way upon any land is resumed or acquired under this section, no compensation shall be payable upon such resumption or acquisition in respect of any enhancement or prospective enhancement of the value of such land resulting or which may result from any improvements constructed or which may be constructed on, or any thing done or which may be done with respect to the land in question by the licensee pursuant to this Act.

(6) Where damage is such that compensation therefor is claimable both upon a resumption or acquisition under this section, and under section 45C or subsection (2) of section forty-five of this Act, such compensation may be claimed upon the resumption or acquisition or it may be claimed under such lastmentioned section or subsection, but it shall not be claimed both upon the resumption or acquisition and under such section or subsection.

45C. Rights of a licensee. (1) A licensee may, with such assistants, and with such vehicles and things as he deems necessary or convenient for the carrying out of the purposes of such entry, at all times enter upon any land described in the license and on, over, or under which he is empowered under this Act to construct a pipeline (and upon any other land giving necessary access to such land) and construct, inspect, test, operate, maintain, repair, alter, add to, or replace a pipeline belonging to the licensee but, unless the land in question is land an easement or right

of way upon which has been acquired by the licensee for the purposes of the pipeline, the licensee shall make compensation in accordance with this Act to the owner of any private land or holder under the Crown of any Crown land, or in the case of either private land or Crown land, to any person in lawful occupation thereof, in respect of any damage occasioned to such owner, holder, or occupier or, in the case of unoccupied Crown land, to the Crown in respect of any damage occasioned to any improvements on such Crown land, by such entry, construction, inspection, test, operation, maintenance, repair, alteration, addition, or replacement and anything connected therewith.

(2) In respect of land the subject of an easement or right of way for the purposes of the pipeline the licensee—

- (a) Shall have and may exercise all the rights of entry upon land specified in subsection (1) of this section; and
- (b) May thereon construct, inspect, test, operate, maintain, repair, alter, add to, or replace the pipeline and, from time to time, take and do all such steps and things as are necessary or convenient for such purposes or any of them.

(3) The rights of a licensee under an easement or right of way for the purposes of the pipeline shall include a right that no person shall, without the prior permission of the licensee or otherwise than in compliance in every respect with any terms, provisions, or limitations imposed by the licensee in respect of the permission erect or place any building or structure whatsoever in, on, or over the land the subject of the easement or right of way or, except for the purpose of cultivating the land in accordance with recognised good land husbandry, dig into such land.

[45D.] Crossing of railways, roads, &c. (1) Where it is necessary for the pipeline to be constructed on, over or under any lands the property of the Commissioner for Railways (hereinafter in this subsection referred to as the Commissioner) or reserved for railway purposes or upon which there is any railway of the Commissioner, the pipeline shall be constructed and maintained (and, where the Commissioner, in operating his railway so requires, altered, added to, or replaced) at the expense of the licensee, to the satisfaction of the Commissioner so as not to impede the safe working of the railways of the Commissioner and so as not unnecessarily to obstruct the working thereof.

The powers given to a licensee under section 45C of this Act shall, in respect of lands referred to in this section, be exercised only with the prior approval of the Commissioner for Railways.

Any additional expense which the Commissioner may at any time incur in operating his railway by reason of the existence and operation of the pipeline or by reason of the exercise by the licensee of his powers under section 45C of this Act upon any of the lands referred to in this section shall be borne by the licensee.

If any dispute arises between the licensee and the Commissioner under the foregoing provisions of this subsection the question shall be determined by the Governor in Council.

Any failure by the licensee to comply with the decision of the Governor in Council made under this subsection shall, for the purposes of subsection (3) of section forty-five of this Act, be deemed to be a failure to comply with a term or condition to which the license is subject.

The licensee shall indemnify the Commissioner against any loss which he may incur or any payment which he may be required to make in respect of the loss of life of or injury to any person, or any animal, or damage to any property, by reason of the existence of the pipeline on,

over, or under any of the lands aforementioned, and the exercise by the licensee of his powers under section 45C of this Act upon any of such lands.

(2) Where it is necessary for the pipeline to be constructed on, over, or under any road or any tramway the licensee shall construct and maintain the pipeline (and, where required, alter, add to, or replace the pipeline) at the expense of the licensee so as not to impede the safe and efficient use of such road or tramway, and shall to the extent necessary cause a substituted road or tramway to be made. Such construction and maintenance shall be to the satisfaction of, and such alteration, addition or replacement may be required by and shall be to the satisfaction of—

- (a) In the case of roads proclaimed under "*The Main Roads Acts, 1920 to 1962*," the Commissioner of Main Roads;
- (b) In the case of other roads, the Minister; or
- (c) In the case of any tramway, the owner of such tramway.

If any dispute arises between the licensee and the Commissioner of Main Roads or the Minister or the owner of any tramway under the provisions of this subsection the question shall be determined by the Governor in Council.

Any failure by the licensee to comply with the decision of the Governor in Council made under this subsection shall, for the purposes of subsection (3) of section forty-five of this Act, be deemed to be a failure to comply with a term or condition to which the licensee is subject.

(3) Where it is necessary for the pipeline to be constructed in, on, over, through, or across any foreshore or any land lying under the sea within Queensland waters or any land lying under any harbour (including any navigable river), whether the foreshore or land is alienated or held from the Crown or not, the provisions of section eighty-six of "*The Harbours Acts, 1955 to 1962*," shall, except as hereinafter provided, apply with respect to the pipeline:

Provided that the provisions of subsection (3) of the said section eighty-six shall apply subject to such adaptations, modifications or additions as the Governor in Council in sanctioning such construction pursuant to subsection (2) of that section may determine.

[45E.] Registration and effect of easements, &c. (1) Whenever an easement or right of way affecting land under "*The Real Property Acts, 1861 to 1960*," shall have been acquired by a licensee for the purposes of a pipeline, the Registrar of Titles shall, when he shall have notice thereof, note such easement or right of way on the deed of grant or certificate of title of the land under the provisions of "*The Real Property Acts, 1861 to 1960*," affected thereby in such manner as to preserve its priority or enter a memorial of the instrument creating such easement or right of way upon the deed of grant or certificate of title of the land under such lastmentioned Acts affected by such easement or right of way.

(2) Notwithstanding any other Act or law and notwithstanding that any easement or right of way acquired by a licensee for the purposes of a pipeline is not being annexed to or enjoyed together with any other land—

- (a) In the case of land under "*The Real Property Acts, 1861 to 1960*," the provisions of subsection (1) of this section shall apply;
- (b) In the case of other land, any law relating to the registration of the instrument of grant of the easement or right of way shall apply;

- (c) In any case, any easement or right of way acquired by a licensee for the purposes of a pipeline shall be a valid easement or right of way, and binding on all persons affected thereby.

(3) For the purposes of the registration of any instrument relating to any land (including any instrument of grant of an easement or right of way) acquired by a licensee for the purposes of a pipeline a plan signed by the Co-ordinator-General of Public Works shall be a sufficient plan."

18. Amendment of s. 50. Section fifty of the Principal Act is amended by adding the words "and for effectually preventing any petroleum from penetrating any aquifer."

19. New s. 50A. The Principal Act is amended by inserting after section fifty the following section:—

"[50A.] **Water rights.** Notwithstanding the provisions of "*The Water Acts, 1926 to 1961*"—

- (a) A holder of an authority to prospect, a permittee or a lessee may, with the prior permission in writing of the Minister and subject to such terms and conditions as the Minister deems fit, which terms and conditions shall be set out in such permission, search for, obtain, store and use underground water (including artesian and sub-artesian water) within the limits of the land covered or demised by the authority, permit, or lease, for any of the purposes for which such authority, permit, or lease was granted and for any purpose incidental thereto;

The Minister shall before granting any such permission refer the application for permission to the Commissioner of Irrigation and Water Supply, who shall investigate the application and make thereon to the Minister a report, together with such recommendation as he deems fit:

Any permission granted by the Minister pursuant to this paragraph may authorise the holder of the authority to prospect, permittee, or lessee to supply, by agreement between the parties (but subject to the obtaining by such holder, permittee, or lessee of the prior approval of the Commissioner of Irrigation and Water Supply as to the quantities and usage of the water in question), to the owner or occupier of the land covered or demised by the authority, permit, or lease, or the owner or occupier of any land adjoining or in the vicinity of such land, any water obtained by such holder, permittee, or lessee, pursuant to such permission, that is surplus to the requirements of such holder, permittee, or lessee for the purposes aforementioned.

- (b) Where, on any land covered or demised by an authority to prospect, permit, or lease, there is situated an artesian well or sub-artesian well licensed under the provisions of "*The Water Acts, 1926 to 1961*," then,—
- (i.) If, in the opinion of the Commissioner of Irrigation and Water Supply, such well is capable of producing more water than is required by the holder of the license under such lastmentioned Acts in respect of such well; and

- (ii.) If, in the opinion of the Minister, the holder of the authority to prospect, permittee, or lessee reasonably requires such excess water or any part thereof for any of the purposes for which such authority, permit, or lease was granted or for any purpose incidental thereto,

the Minister may authorise or require the holder of the license under "*The Water Acts, 1926 to 1961*," to supply to the holder of the authority to prospect, permittee, or lessee such excess water or part thereof on such terms and conditions as may, subject to the approval of the Minister, be agreed upon between the holder of the license and the holder of the authority to prospect, permittee, or lessee or, failing such agreement, as the Minister deems fit, and such holder, permittee, or lessee may thereupon acquire and use such excess water or part thereof for the purposes aforementioned."

20. Repeal of and new s. 51. Section fifty-one of the Principal Act is repealed and the following section inserted in its stead:—

"[51.] **Abandonment of well.** (1) No person shall abandon any well that has been drilled for petroleum unless, prior to the well being abandoned, it has been properly and effectively plugged so as to prevent any damage occurring to any aquifers and petroleum deposits.

(2) No person shall withdraw any casing from any well that has been drilled for petroleum or any well that, pursuant to permission granted under section 50A of this Act, has been drilled for water, without the prior consent in writing of the Minister or, where such consent has been granted subject to any terms and conditions, otherwise than in accordance with such terms and conditions.

The Minister may consent to any withdrawal as aforesaid subject to such terms and conditions as he deems fit.

(3) No person shall sell or lease or grant any rights with respect to any well that has been drilled for petroleum or any well that, pursuant to permission granted under section 50A of this Act, has been drilled for water, or any casing in such a well or any other fixture attached to such a well, without the prior consent in writing of the Minister or, where such consent has been granted subject to any terms and conditions, otherwise than in accordance with such terms and conditions.

The Minister may consent to any such sale, lease, or grant as aforesaid subject to such terms and conditions as he deems fit.

(4) On the termination by forfeiture, surrender or expiry of an authority to prospect, permit, or lease, the ownership of any well that has been drilled for petroleum, and any well that, pursuant to permission granted under section 50A of this Act, has been drilled for water, on the land covered or demised by such authority, permit, or lease, together with all casing in such well and all other fixtures attached to such well, excepting any well, casing or fixture that with the consent of the Minister has been sold pursuant to subsection (3) of this section, shall vest in the Crown, and any lease and any other rights granted under that subsection shall terminate.

Thereupon no person shall use such well for any purpose or remove any casing or fixture therefrom except with the prior consent in writing of the Minister.

The Minister may consent to any use or removal as aforesaid conditioned upon payment to the Minister of the value of the well, to be determined by the Minister, or such lesser sum as the Minister may determine.

Upon payment as aforesaid the well or, as the case may be, casing or fixture, shall become the property of the payer.

Any moneys so paid to the Minister shall upon demand be paid out to the person who was the owner of the well immediately before the ownership of the well vested in the Crown.

(5) Where the owner or occupier of the land whereon a well is situated becomes the owner of that well pursuant to this section, and obtains a license under "*The Water Acts, 1946 to 1961*," in respect of that well, the aforesaid provisions of this section shall cease to apply with respect to that well.

(6) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act."

21. Repeal of and new s. 52. Section fifty-two of the Principal Act is repealed and the following section inserted in its stead:—

"[52.] **Conduct of operations on land.** (1) The holder of an authority to prospect, permittee or lessee shall so conduct operations under the authority, permit, or lease as not to interfere with the existing use of the land covered or demised by the authority, permit, or lease to a greater extent than may be necessary. In the event of any dispute the Minister may determine the extent of such interference which is so necessary.

(2) The holder of an authority to prospect, permittee, or lessee shall make compensation in accordance with this Act to the owner of any private land or holder under the Crown of any Crown land or, in the case of either private land or Crown land, to any person in lawful occupation thereof in respect of all damage caused by him to crops and improvements on such land, including any permanent artificial water supply.

Such compensation shall include reimbursement for the occupation of that portion of the land occupied by the holder, permittee, or lessee for mining and construction works during the period of such occupation.

In respect of any land so occupied the holder, permittee, or lessee shall do such things and take such precautions as may be prescribed to prevent any injury to such land or any property of the owner, holder or occupier of such land as aforesaid situated upon such land, and shall promptly repair any damage resulting from improper methods of mining or from any failure to do the things and take the precautions as aforesaid."

22. Amendment of s. 54A. Section 54A of the Principal Act is amended by omitting therefrom the second paragraph, being the paragraph commencing with the words "Moreover the Minister shall".

23. Repeal of s. 55A. The Principal Act is amended by repealing section 55A.

24. Repeal of and new s. 58. Section fifty-eight of the Principal Act is repealed and the following section inserted in its stead:—

“[58.] Who bound by terms of permits and leases, &c. Each of the obligations and benefits under any authority to prospect, permit, lease and license shall be binding upon and extend to the heirs, executors, administrators, successors and permitted assigns of the holder of the authority to prospect, permittee, lessee, or licensee.”

25. Amendment of s. 59. Section fifty-nine of the Principal Act is amended by omitting subsection (1) and inserting in its stead the following subsection:—

“(1) Compensation payable under this Act, whether by the Minister or a permittee or lessee or holder of an authority to prospect or licensee or any other person by whom compensation is payable under this Act, shall not be payable where the operations of any such person do not comprise any portion of the surface of the land.”

26. Amendment of s. 60. Section sixty of the Principal Act is amended by inserting in subsection (1) after the word “prospect” the words “or licensee or other person by whom compensation is payable under this Act.”

27. Amendment of s. 61B. Section 61B of the Principal Act is amended by adding to subsection (1) the following proviso:—

“Provided that nothing in this subsection shall apply with respect to any agreement entered into between the holder of an authority to prospect, permittee or lessee and a drilling contractor who holds no interest whatsoever in the authority to prospect, permit, or lease.”

28. Amendments of s. 63. Section sixty-three of the Principal Act is amended by—

(a) in subsection (1)—

(i) inserting, after the words “authority to prospect”, where those words first appear, the words “or license”; and

(ii) adding the words “, or for preparing for the transport of, or transporting petroleum or petroleum products under and pursuant to a license”; and

(b) adding the following subsection:—

“(6) The foregoing provisions of this section shall be in addition to and not in substitution for the provisions of “*The Companies Act of 1961*”.”

29. New s. 63A. The Principal Act is amended by inserting after section sixty-three the following section:—

“[63A.] Penalties. (1) Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding two hundred pounds and, if the offence is a continuing one, a further penalty not exceeding fifty pounds per day for each and every day during which the offence continues.

(2) All offences against this Act may be prosecuted in a summary way under “*The Justices Acts, 1886 to 1960*,” upon the complaint of any person thereunto authorised in writing by the Minister.”

30. Amendment of s. 65. Subsection (1) of section sixty-five of the Principal Act is amended by adding the following paragraph:—

“Without limiting the generality of the foregoing provisions the regulations may prescribe all things necessary relating to the storage and use of explosives in connection with the exploration for and production of petroleum.”