

## CHAPTER 121.

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## CHAPTER 121.

## CONCESSIONS.

29 of 1931.  
25 of 1945.  
6 of 1949.  
6 of 1956.  
29 of 1956.

**An Ordinance to Regulate the Concession of Rights with respect to Land by Natives, and to constitute a Concessions Court.**

[7TH DECEMBER, 1931.]

## PRELIMINARY.

Short title.

1. This Ordinance may be cited as the Concessions Ordinance, and shall apply to the Colony and Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—  
“concession” means (a) any writing whereby any right, interest or property in or over land with respect to minerals was granted before the first day of January, 1929, by the Tribal Authority of the Marampa Chieftdom in the Protectorate to the African and Eastern Trade Corporation,

Limited, and (b) any writing whereby any right, interest or property in or over land with respect to timber, rubber or other products of the soil, or the option of acquiring any such right, interest or property, purports to be granted or agreed to be granted either before or after the 1st day of January, 1929, by any native or natives.

“Court” means the Concessions Court as hereinafter established.

The “holder” of a concession includes any person exercising, entitled to exercise, or claiming to be entitled to exercise any of the rights granted under such concession by the native grantor; and all such persons shall be deemed to hold a concession whether their claim thereto to be as grantees, or as assignees, or as the successors in title of such grantees or assignees by operation of law.

“land” includes land which forms the bed of any river, stream, lake or lagoon.

“native” includes all persons of African birth who are entitled by native customs to rights in land in the Colony or Protectorate.

“Tribal Authority” means paramount chiefs and their councillors and men of note, or sub-chiefs and their councillors and men of note.

The expressions “Chief Inspector of Mines”, “mine” and “mining”, “minerals”, “open-cast”, “prospect” and “prospecting”, “shaft” and “pit” and “tributer” have the same meanings as those respectively assigned to them by the Minerals Ordinance.

Cap. 196.

3. The Governor in Council may, from time to time, by Order—

(a) exclude from the operation of this Ordinance any part of the Colony or Protectorate which is not comprised in a valid concession; and

(b) cancel or alter any such notification.

Power to exempt parts of Colony and Protectorate from operation of Ordinance.

4. (1) The Governor in Council shall have power to make rules not inconsistent with the provisions of this Ordinance—

(a) with respect to the keeping of accounts, and other records for the purpose of showing the amount and value of the minerals, timber, rubber or other products of the soil obtained from any land the subject of any concession, and for prescribing the form of such accounts and records, and

Power of Governor in Council to make rules.

for the transmission of such accounts and records to the Governor or any officer nominated by him; and

(b) with respect to the time and manner in which any fees, duties, royalties, rents or other payments made under the provisions of this Ordinance are to be assessed, received, or paid; and

(c) with respect to the procedure to be followed in the acquisition of concessions, and for that purpose the Governor in Council may alter or revoke any of the provisions in Schedule C or substitute other provisions therefor; and

(d) with respect to the surveying and demarcation of the boundaries of concessions; and

(e) generally for the more effectual carrying out of the provisions of this Ordinance.

Penalty.

(2) By any rule made under the provisions of this section a penalty may be imposed for the breach of any such rule which shall not exceed twenty-five pounds for any one offence, or in the case of a continuing offence two pounds for every day during which the offence is continued.

#### GRANTS FOR CULTIVATION.

Alienation  
of land for  
cultivation  
by Tribal  
Authorities.  
Cap. 122.

5. No Tribal Authority or other native shall have power to alienate land for the purpose of cultivation except under the provisions of this Ordinance or under the provisions of the Protectorate Land Ordinance; and no grant or other disposition of land for the purpose of cultivation, except such as is made under the provisions of the Ordinance last aforesaid, shall be made by any Tribal Authority or other native without the assent of the Governor.

Conditions  
on which  
Governor  
may assent  
to grant.

6. (1) The Governor shall not assent to such grant or disposition—

(a) when the grant or disposition is of an area not exceeding one thousand acres, unless he is satisfied that such grant or disposition is for the benefit of the chiefdom in which such area is situated;

(b) when the grant or disposition is of an area exceeding one thousand acres, unless he is satisfied that such grant or disposition is for the benefit of the whole country and either that the tribal administration will not be destroyed or injuriously affected by such grant or disposition, or that adequate provision is made by the terms of such grant or

disposition, or otherwise for the administration of the area granted, by other means than the tribal system;

(c) when the grant or disposition is of an area exceeding five thousand acres, without the consent of the Secretary of State;

(d) in any case, unless a certificate signed by the District Commissioner of the consent of the Tribal Authority or other native is produced, and the terms of the grant or disposition are put into writing and signed by the parties and contain the following particulars—

(i) the annual or other consideration, if any, to be paid for the land;

(ii) the area to be occupied;

(iii) the duration of the grant;

(iv) the special conditions, if any, which the parties have to comply with in consideration of occupying the land without payment or at a low rental;

(v) whether, or not, the interest of the grantee may be assigned;

(vi) whether, or not, the grantee is to be entitled to the palm trees or kola trees, rubber vines or rubber trees on the land.

(2) Except in so far as may be otherwise expressly provided therein, such grant or disposition shall be deemed to confer on the person to whom the same is made the right to clear the land of all timber or other products of the soil with a view to cultivating the land, with the exception of palm trees, kola trees, rubber vines and rubber trees, which may not be cleared from the land unless the grant or disposition expressly so provides.

Right conferred by grant.

(3) Whenever the Governor shall have assented and, when such consent is necessary, the Secretary of State shall have consented, to any grant or disposition of land in accordance with the provisions of this section, such grant or disposition shall not be deemed to be a concession within the meaning of this Ordinance, and no proceedings in the Court shall be necessary in respect thereof to establish the validity of such grant or disposition.

Grant not a concession.

7. When the Governor has assented to any grant or other disposition of land under section 6, the rights of the grantee thereunder shall, nevertheless, be subject to any conditions which the Legislature may at any time impose in respect of such rights; and such assent shall not affect any question of law as to

Grant subject to future conditions which legislature may impose.

title or any other matter as between the parties to such grant or disposition, but shall be an undertaking on the part of the Governor that he will not prevent the grantee from entering on such land or exercising any rights conferred on him by such grant or disposition, and will not interfere therewith, save in so far as may be necessary to carry out any order of a Court of law or of the requirements of any present or future Ordinance.

Kernels,  
piassava and  
kola not to  
be deemed  
products of  
the soil.

8. Palm kernels, piassava and kola nuts shall not be deemed to be products of the soil within the meaning of this Ordinance, but no grant, or other disposition of land, or licence which confers a right to gather the same shall be made without the assent of the Governor, and in giving or withholding such assent the Governor shall be guided as far as possible by the provisions of section 6, and any rights acquired under any such grant, disposition or licence shall be subject to the provisions of section 7.

#### LIMITATION OF AREA AND TERM OF GRANTS.

More than  
50 acres not  
to be  
alienated for  
more than  
99 years.

9. It shall not be lawful for any Tribal Authority or other native to enter into or execute any agreement, deed, lease or conveyance, whereby any land of a greater extent than fifty acres shall be sought to be alienated from such Tribal Authority or other native to any person or persons, other than to the Colonial Government for a public purpose, for any longer term than ninety-nine years.

Agreement  
made in con-  
travention  
of last  
section void.

10. Any agreement, deed, lease or conveyance executed or entered into in contravention of the last preceding section shall be void and of no effect.

#### ENQUIRIES INTO CONCESSIONS.

Constitution  
and juris-  
diction of  
Concessions  
Court.

11. (1) A Court is hereby constituted and established to be styled the "Concessions Court", which shall consist of the Chief Justice and Puisne Judges of the Supreme Court. The Court shall form a division of the Supreme Court and shall have power, jurisdiction and authority to enquire into and certify as valid or invalid any concession whether relating to land situated within the Colony or Protectorate except in so far as is otherwise provided in this Ordinance, and shall exercise such power, jurisdiction, and authority subject to and in accordance with the provisions of this Ordinance. Subject to the provisions of this Ordinance, the Courts Ordinance shall be read and construed with this Ordinance, and every proceeding in the Supreme

Court under this Ordinance shall be a "matter" within the meaning of the said Courts Ordinance. The power of making rules given in section 24 of the Courts Ordinance shall extend to the making, altering or revoking of rules for the purpose of proceedings in the Supreme Court under this Ordinance.

(2) Any Judge sitting alone may exercise all the powers of the Court.

Court constituted by one Judge.

(3) Sittings of the Court may be held at any place within the Colony or Protectorate, and more than one sitting of the Court may, if necessary, be held at the same time.

Place of sitting.

(4) The officers of the Supreme Court shall be officers of the Court, and in such capacity shall exercise all the powers and perform all the duties which are conferred and imposed upon them respectively by the Courts Ordinance.

Officers of the Court.

12. No proceeding shall be taken under this Ordinance to establish the validity of any concession which has not been provisionally recognised by the Governor. Any concession, which has not been so recognised within one year from the granting thereof, shall be null and void.

Governor must recognise concession before validation proceedings can be taken.

13. No proceedings shall, without the leave of the Court, be taken to give effect to any concession unless such concession has been certified as valid by the Court.

No proceeding to give effect to uncertified concession.

14. (1) Within six months after the date of the concession notice of every concession shall be filed by the person claiming to be entitled to the benefit thereof, hereinafter called the claimant, with the Registrar of the Court. Such notice shall be in the prescribed form and shall contain the prescribed particulars. The claimant shall also file within the like time such other documents, or duly certified or attested copies thereof, as the claimant relies upon in support of his right to such concession:

Filing of notice of concession.

Provided that the filing of any such copies shall not be deemed to render unnecessary the due production at the enquiry into any concession, or at the trial of any question relating to any concession, of the original documents so relied upon.

(2) If notice of any concession, and the documents in support, shall not be filed within the time limited by this section, such concession shall, at the expiration of the said time, be void:

Provided that it shall be lawful for the Court in its discretion for good cause shown, and upon such terms as it thinks fit, to extend the time so limited in respect of any notice of concession

or documents in support, if it is of opinion that this can be done without the infliction of injustice on any person who has duly complied with the provisions of sub-section (1).

Time within which steps for surveying to be taken.

15. The claimant shall within the time limited by the last preceding section take such steps and pay such fees as may be prescribed for the surveying and demarcation of boundaries of concessions, and any concession, in respect of which default has been made under this section, shall at the expiration of the said time be void:

Provided that it shall be lawful for the Court in its discretion for good cause shown, and upon such terms as it thinks fit, to extend the time so limited in any case where it is of opinion that this can be done without the infliction of injustice on any person who has duly complied with the provisions of this section.

Notice to be given on filing of notice of concession.

16. The Court, on the filing of any notice of a concession, shall cause notice in the prescribed form of such filing to be published in the *Gazette* and affixed in the Court and also served on the native by whom such concession was granted, and when the concession was granted by several natives on one or more of them, and also on such other person as the Court may direct, and the claimant shall be required to pay the cost of such service before the hearing of the inquiry into such concession, unless the Court otherwise direct.

Concession only valid under certain conditions.

17. No concession shall be certified as valid—

(1) unless made in writing signed by the grantor or some person duly authorised by him;

(2) unless the Court is satisfied that the proper persons were parties to the concession, and that it may be reasonably presumed that they understood the nature and terms thereof;

(3) if obtained by fraudulent or other improper means;

(4) if made without adequate valuable consideration, regard being had to the circumstances existing at the time of the acquisition of the concession;

(5) unless all of the terms and conditions upon which such concession was made which ought to have been performed, have been reasonably and substantially performed;

(6) unless the Court is satisfied that the customary rights of natives are reasonably protected in respect of shifting cultivation, pasturage, collection of firewood, and hunting and snaring game;



(7) if it grants or purports to grant rights to collect natural produce other than timber to the exclusion of the native;

(8) if it grants or purports to grant rights to remove natives from their habitations within the area of such concession:

Provided that nothing herein contained shall affect the validity of any concession duly certified as valid before the commencement of this Ordinance. Proviso.

18. (1) No enquiry shall be held as to the validity of any concession before the boundaries of the land therein comprised have been surveyed and demarcated and plans of the same lodged with the Registrar of the Court, in manner prescribed, and before the expiration of three months from the filing of the notice of such concession. Time within which enquiry into validity of concession to be held.

(2) Any person desiring to oppose the grant of a certificate of validity of a concession may apply to the Court for leave to oppose, at any time before the date of the final order for the issue of the certificate; and the Court may in its discretion, after hearing the application, either grant or refuse such leave.

(3) The Court may order such persons as it may deem expedient to be served with notice of an application for leave to oppose, and any person so served may appear on the hearing of the application, and be heard thereon.

19. The Governor may direct any officer to intervene in any enquiry under this Ordinance into any concession, and thereupon the officer shall be for all purposes a party to the proceedings. Right of Governor to intervene.

20. Whenever the Court shall have decided that a concession is valid, a certificate to that effect bearing the seal of the Court, hereinafter referred to as a "certificate of validity," shall be attached to, or endorsed upon, such concession: Certificate of validity and registration of same.

Provided that the Court may, for good reason to be noted on the minutes, declare that such certificate need not be attached to or endorsed upon such concession. Every such certificate shall be registered in the office of the Registrar General under the General Registration Ordinance, or any Ordinance substituted for the same, by the Registrar of the Court on behalf of and at the expense of the person entitled to the benefit thereof, and shall be registered as far as possible in the same way as a Memorial of Judgment. A copy of every such certificate shall be transmitted by the Registrar of the Court to the Governor Cap. 255.

who shall cause particulars thereof to be published in the *Gazette*.

Requisites  
of certificate  
of validity.

**21. Every certificate of validity—**

(a) shall state the boundaries, extent and situation of the land in respect of which the certificate is given; and

(b) shall briefly specify the nature of the concession; and

(c) shall contain a complete statement of any limitations, modifications and conditions imposed by the Court; and

(d) shall declare the concession to be valid subject to terms of the certificate of validity; and

(e) shall be signed by the Judge making the final order for the issue of the certificate of validity or his successor in office; and

(f) may be in the form in Schedule A.

Power to  
modify  
concessions  
and impose  
conditions.

**22. (1)** It shall be lawful for the Court in its discretion to make such modifications in the terms of any concession and to impose such conditions with respect to the issue of any certificate of validity as to the Court shall seem just.

(2) Where any such condition is not duly complied with, it shall be lawful for any person thereby aggrieved, or any person by leave of the Governor, to apply to the Court by motion calling upon the holder of the certificate of validity or his agent or attorney to show cause why such certificate of validity should not be cancelled and, unless good cause is shown to the contrary, it shall be lawful for the Court—

(a) to determine the concession and cancel the certificate of validity, and permit the grantor of such concession or his successor in title to re-enter subject to such terms as the Court may deem just; or

(b) to order the condition to be complied with and award damages for the non-compliance therewith; or

(c) to make any other order which to the Court shall seem just.

The costs in every such case shall be in the discretion of the Court.

Powers of  
Court when  
concession  
found  
invalid.

**23.** When the Court shall decide that any concession or part thereof is invalid, but shall find that consideration was given therefor, the Court may order the repayment or return of such consideration, or of part thereof, to the person who would have been entitled to the benefit of the concession if it had been



declared valid, or may make such order for the settlement of any question arising with respect to any such concession as it shall deem just, and in particular may, in making any order, take into account the time which has elapsed since the date of the concession, the knowledge of and acquiescence in any such concession on the part of any person claiming to be affected thereby, or any operations or expenditure upon the land. Any such order shall be deemed to be, and shall be enforced as, a decree of Court.

24. The Court may, in any case where it shall deem it necessary, require that before a certificate of validity is issued in respect of any concession the boundaries of the land affected shall be demarcated and surveyed by a surveyor either duly qualified or approved by the Court; and the Court may further require that such demarcation and survey or any portion thereof shall be certified as sufficient by a surveyor either duly qualified or approved by the Court as aforesaid, and the Court may further order that either before or after the issue of a certificate of validity the position of a point described on any plan made in pursuance of any survey as aforesaid as the *datum point* of such survey shall be fixed by a surveyor, either duly qualified or approved by the Court as aforesaid, with reference to a general survey of the Colony or Protectorate or any part thereof. The costs of any demarcation or survey or of any certificate or of fixing the *datum point* under this section shall be paid by the person claiming to be entitled to the benefit of the concession.

Order by  
Court for  
survey.

25. No certificate of validity shall be issued in respect of any concession which purports to confer any right or interest in or over any land for a longer period than ninety-nine years, or in respect of any concession which purports to confer an option of acquiring any such right or interest for a longer period than three years. The Court may reduce the term of any concession so as to bring it within the limits aforesaid.

Period for  
which  
certificate  
of validity  
valid.

26. (1) No concession shall be valid, whether made before or after the coming into force of this Ordinance, which purports to confer any rights over an area exceeding—

Area for  
which alone  
concession  
valid.

(a) in the case of land in respect of which rights of mining are conferred by such concession, five square miles;

(b) in the case of land in respect of which rights to cut timber, or to collect rubber, or relating to other products of the soil are conferred, twenty square miles.

(2) No person shall hold at one time concessions the aggregate area of the land comprised in which shall exceed, in the case of mining rights, twenty square miles, or in the case of rights relating to timber, rubber, or other products of the soil, forty square miles.

(3) Where a concession purports to confer rights in respect of any area exceeding the limits aforesaid, the Court may issue a certificate of validity declaring the concession valid in respect of a portion of such area selected by the holder of the concession, not exceeding such limits, and shall declare the concession void in respect of the residue,

#### CERTIFIED CONCESSIONS

Instruments of transfer, to be registered and liable to stamp duty.

Cap. 255.

27. (1) No instrument by which the rights or any portion thereof granted by any concession in respect of which the Court has issued a certificate of validity may be transferred, assigned or surrendered, shall take effect until the same shall have been stamped and registered in the office of the Registrar General under the General Registration Ordinance, or any Ordinance substituted for the same, and until a copy thereof, certified under the hand of the Registrar General, shall also be filed by the person entitled to the benefit thereof with the Registrar of the Court

A memorandum endorsed on any such instrument and signed by the Registrar of the Court, in the words "certified copy filed," shall be conclusive evidence that the provisions of this section have been duly complied with.

Cap. 274.

(2) Every such instrument shall be subject to a stamp duty, in addition to any other duty payable by law, of one pound for every square mile or portion of a square mile of the area in respect of which any rights are thereby transferred, assigned or surrendered. This section and section 32 (1) shall be read with the Stamp Duty Ordinance.

Date from which certificate of validity good.

28. A certificate of validity shall be good and valid from the date of such certificate as against any person claiming adversely thereto. In the event of the land therein referred to, or any portion thereof, becoming or being declared to be the property of any person other than the grantor mentioned in such certificate, the Court shall make such order as it deems just with reference to the payment or apportionment of rent, and the Court shall cause to be sent to the Accountant General an office copy of such order.

29. Notice of the termination of the rights granted under any concession in respect of which a certificate of validity has been issued shall be given in writing by the person entitled to the possession of the land comprised in such concession to the Registrar of the Court, who shall report the same to the Governor.

Notice of the termination of right to be given to Registrar.

30. (1) It shall be lawful for the Court with the consent of the grantor and holder of a concession, in respect of which a certificate of validity has been issued, to vary, add to or otherwise modify the terms and conditions of such concession of certificate of validity.

Variation of certificate of validity.

(2) Any application under this section may be made by motion and the Court may, in its discretion, permit an affidavit to be used for the purpose of proving consent.

(3) "grantor" in this section means either the original grantor of the concession or his successor in title.

(4) "holder of a concession" in the case of an assignment of a portion of the land comprised in a concession means the assignee of such portion, and in such a case the modification of the concession or certificate of validity shall apply only with respect to such portion:

Provided that this section shall not apply to any (a) concession as defined in section 2, but it shall be lawful for the Governor in Council, with the consent of the grantor and holder of any such concession in respect of which a certificate of validity has been issued, to vary, add to or otherwise modify the terms and conditions of such concession or certificate of validity.

31. (1) Any rent or other periodical sum payable under any certified concession to any native shall be paid in the prescribed manner by the holder of such concession to the Accountant General, and by the Accountant General to such native, and such payment to the Accountant General shall be a complete discharge to the person making the same.

Rent to native in respect of concession to be paid to Accountant General.

(2) Any such rent or periodical sum not paid within the prescribed time may be sued for by the person entitled to receive the same. In any such suit a certificate signed by the Accountant General as to the amount due and as to non-payment of any amount due shall be admitted without proof and shall be *prima facie* evidence as to the amount due and as to such non-payment. Any money recovered or paid in any such suit shall be paid into Court, and any receipt by the plaintiff shall

not discharge the defendant. The Court after refunding the plaintiff any costs he may have been allowed shall order the residue to be paid to the Accountant General.

(3) If any rent or periodical sum payable under any concession shall remain unpaid for six months after the same shall have become due, such concession shall thereupon become void, but without prejudice to any rights that may have accrued to any person under such concession. Notice of every such termination of a concession shall be published in the *Gazette*.

#### LICENCES.

Prospecting  
licence.

**32.** (1) No person shall prospect for timber, rubber or other products of the soil, within the Colony or Protectorate, without a licence from the Governor in the form set forth in Schedule B, and every such licence shall be subject to a stamp duty of five pounds. Every person contravening the provisions of this subsection shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

Cap. 196.

(2) No person shall prospect for minerals, as defined in the Minerals Ordinance, otherwise than in accordance with the provisions of that Ordinance.

(3) Every prospecting licence under sub-section (1) shall be made out in the name of the individual applying for the same, and shall not be transferable.

(4) It shall be lawful for any District Commissioner, Assistant District Commissioner, Forestry Officer, Agricultural Officer, or Police Officer to demand from any person prospecting for timber, rubber or other products of the soil the production of a licence to prospect. If such person shall not produce a licence to prospect duly granted to him and permit the officer demanding the production thereof to read such licence, it shall be lawful for such officer to require such person to declare to him immediately his name and place of residence, and if such person shall refuse to declare his name and place of residence as aforesaid, or shall declare a false name or false place of residence, he shall be guilty of an offence, and on conviction before a Magistrate be liable to a penalty not exceeding ten pounds, or in default to imprisonment for a period not exceeding three months. And every such person so refusing or declaring a false name or false place of residence may be arrested and taken before a Magistrate.

33. (1) No person other than the holder of an (a) concession as defined in section 2 shall carry on mining within the Colony or Protectorate otherwise than in accordance with the provisions of the Minerals Ordinance, or any Ordinance substituted for the same.

(2) It shall be lawful for the holder of an (a) concession to commence and carry on any operation for winning and obtaining minerals in and under the land comprised in such concession subject only to the terms and conditions contained in such concession and the provisions of this Ordinance.

No persons other than holders of (a) concessions to carry on mining except under the Minerals Ordinance.  
Cap. 196.

#### SPECIAL PROVISIONS RELATING TO MINING

34. Notwithstanding anything in this Ordinance contained no holder of the concession shall conduct any mining or prospecting operations underground unless he holds a licence from the Chief Inspector of Mines authorising him to do so which licence shall not be unreasonably withheld.

Mining and prospecting prohibited except under licence.

35. There shall be kept at the principal office within Sierra Leone of the holder of a concession in respect of land upon which mining or prospecting operations are being conducted—

Records, books, plans, etc., to be kept.

(a) accurate and regular records containing full particulars of all minerals obtained under the concession and the manner in which they have been disposed of, the number of Europeans and the number of non-Europeans employed in mining operations on the area of the concession, and

(b) correct plans and sections of all mines and of all veins and lodes which shall have been discovered on the area of the concession, upon which the extent, position and actual conditions of the works shall at least once in every six months be accurately delineated. The scale of plans and sections shall be, for underground plans 1/480, and surface plans 1/1,200 or 1/2,400.

Certified copies of plans of lode mines shall be forwarded to the Chief Inspector of Mines when so required by him within such time as he may direct.

36. On or before the twentieth day of each month the holder of a concession in respect of land upon which mining or prospecting operations are being conducted or the attorney of such holder shall deliver or cause to be delivered to the Chief Inspector of Mines a written statement setting forth—

Monthly returns to be furnished.

(a) the nature of the operations being conducted on the area of the concession;

(b) the average number of Europeans and non-Europeans employed on the area in mining or prospecting during the preceding month;

(c) the nature and value of any additional machinery or plant brought on to the area or permanently removed from the area since the previous return;

(d) the kind and quantity of minerals obtained during the preceding month and the manner in which they have been disposed of;

(e) the particulars of any death or accidents which may have occurred amongst the employees during the preceding month and arising out of the course of their employment:

Provided no return shall be required to be made in respect of an accident unless such accident renders an employee unable to work for at least three days; and

(f) any further particulars which the Chief Inspector of Mines may require.

The statements required by this section shall be signed and certified to be correct by the holder of the concession or by the attorney of such holder.

Pollution  
of water  
prohibited.

**37.** No person shall in the course of mining or prospecting operations upon any land which is subject to a concession or in any works connected therewith pollute or permit to become polluted the water of any river, stream or watercourse.

Right of  
entry and  
inspection.

**38. (1)** A District Commissioner and any officer of the Mines, Geological or Survey Departments may enter upon any land on which mining or prospecting operations are being conducted and which is the subject of a concession, and inspect any prospecting or mining operations or any works in connection therewith.

(2) The Chief Inspector of Mines may inspect and take copies of or extracts from any books, papers, plans and documents dealing with prospecting or mining operations and required by this Ordinance to be kept.

(3) The Chief Inspector of Mines or the Geologist or any person authorised in writing by either of such officers may at any time



take samples, make surveys and perform any operations that he may deem necessary for the purpose of making a report on such land.

39. (1) If an accident shall occur in any mine or in connection with the mining or prospecting operations conducted on land which is the subject of a concession involving loss of life or serious injury to any person the holder of the concession shall report the same as soon as possible to the Chief Inspector of Mines and to the District Commissioner.

Accidents to  
be reported.

In this sub-section the expression "serious injury" means an injury likely to result in the injured person being incapacitated from doing his usual work for at least fourteen days.

(2) (a) In the event of any such accident the Chief Inspector of Mines or in the absence of the Chief Inspector of Mines, an Inspector of Mines, a District Commissioner or any other officer appointed by the Governor in that behalf shall hold an inquiry into the cause thereof.

(b) The findings of the officer holding the said inquiry shall be sent to the Governor and a copy thereof shall be sent to the holder of the concession.

(3) Where such an inquiry is held and the person killed or injured is a tributer—

(a) if it is shown that the holder of the concession or his agent has been guilty of negligence, or has not taken all reasonable and proper precautions to prevent such accident; or

(b) if the person killed or injured is a native of Sierra Leone employed in the mine or in connection with the mining or prospecting operations, and the holder of the concession or his agent shall fail to satisfy the officer holding the inquiry that the accident is attributable to the serious and wilful misconduct of such native,

the officer holding the inquiry may award such compensation as he deem to be just to such relatives of the deceased as he may think fit or to the injured person:

Provided that the amount of any compensation awarded under this section shall not exceed that which would have been recoverable under the Workmen's Compensation Ordinance, had the person killed or injured been entitled to compensation under that Ordinance.

Cap. 219.

(4) If any person to whom the compensation is awarded under sub-section (3) is unwilling to accept the amount of compensation awarded in full settlement of all claims which he may have by reason of the accident against the person ordered to pay the same, he may refuse to accept the same and take against such person such proceedings, if any, as may be open to him apart from this Ordinance. If the person who is ordered to pay compensation is dissatisfied with the decision of the officer who has held the inquiry, he may, within fourteen days of the date on which he has notice of the award and is informed that the person to whom compensation has been awarded will accept the same, appeal to the Governor whose decision shall be final:

Provided that the Governor may, if he thinks fit, direct that the matter in dispute shall be determined by arbitration or in the courts.

(5) If there has been no appeal to the Governor within the time specified above, or if there having been an appeal compensation is awarded, the person directed to pay compensation shall pay the amount awarded to the officer who held the inquiry or to his successor in office for transmission to the person or persons entitled thereto, and if the same is not paid within fourteen days of having been required so to do by the Governor, or by some public officer authorised by the Governor so to require, such person shall forfeit five hundred pounds recoverable in the Supreme Court, at the instance of the Attorney General, as a civil debt.

Provided that nothing in this section contained shall relieve any person from the liability to be proceeded against for any offence committed by him.

(6) The Chief Inspector of Mines, the District Commissioner or other officer appointed by the Governor under sub-section (2) of this section shall, for the purpose of any inquiry under sub-section (2), have the powers of the Supreme Court to summon witnesses, to call for the production of books and documents, and examine witnesses and parties concerned on oath.

Cap. 196.

All summonses may be in the form set out in the First Schedule to the Minerals Ordinance, and shall be served by a constable or by such person as the officer issuing the same may direct.

(7) Any person summoned to attend or to produce books or documents as aforesaid, and refusing or neglecting to do so,

or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on summary conviction to a fine not exceeding fifty pounds:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the privileges to which he would have been entitled if giving evidence before a court.

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

(9) Any interested party may appear at any inquiry either in person or by legal representative and may question the witnesses and call witnesses on his own behalf on all matters relevant to the subject of the inquiry.

Any person whom an interested party desires to call as a witness on his own behalf shall be summoned by the officer holding the inquiry to attend the said inquiry and give evidence thereat.

(10) Where after an inquiry has been held under this section any person is aggrieved at the finding thereat (other than in respect of any amount awarded as compensation under subsection (3)) such person may apply to the Supreme Court for the inquiry to be reopened and the Court, if satisfied that there are good and sufficient reasons for doing so, may order that the inquiry shall be reopened before itself or any Magistrate, that any additional evidence that is available shall be taken and that the original finding shall then be confirmed or a new finding substituted therefor.

40. Where the death of any person immediately results from any accident in any mine or in connection with the mining or prospecting operations conducted on land which is the subject of a concession the place where the accident occurred shall, after removal of the injured person or the body as the case may be, be left precisely as it was immediately after the accident until an Inspector or the District Commissioner has inspected it:

If death occurs place of accident to be left untouched until inspected.

Provided that work may be resumed at such place with the prior approval of an Inspector or if its discontinuance may endanger the lives of other persons or seriously impede the working of the mine.

## MISCELLANEOUS.

Concessions  
improperly  
obtained.

41. Every person who obtains or attempts to obtain any concession without complying with the rules laid down in Schedule C shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months; and any concession so obtained by him shall be absolutely void, and of no effect.

Prohibition  
of inter-  
ference by  
concession-  
aire with  
railways  
and public  
lands.

42. No person entitled or claiming to be entitled to the benefit of any concession, or to any right to prospect, shall in the exercise of the powers conferred by such concession, or of any such right, disturb or interfere with any railway, public road or pathway, or with any public building, burial ground, or land appropriated by law to any public purpose. Any person guilty of any such disturbance or interference shall be liable to a penalty not exceeding one hundred pounds, to be recovered in the Supreme Court, and in addition may be ordered by the Court to pay the cost of making good any damage so caused by him.

Penalty on  
person  
putting  
fetish on  
concession.

43. If any person shall declare or represent any land affected by any concession in respect of which a certificate of validity has been issued by the Court or as to which proceedings are pending before the Court to be fetish land, or shall put fetish on any such land, he shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months:

Provided that this section shall not apply to any declaration or representation made in the course of an enquiry under this Ordinance by any party to the proceedings or by any person applying for leave, or having leave, to oppose the grant of a certificate of validity.

Appointment  
of attorney.

44. (1) The holder of every concession, not being a person ordinarily resident in Sierra Leone, shall appoint and at all times maintain in Sierra Leone an attorney duly authorised under lawful and valid power of attorney to represent him in all matters relating to the concession and shall, without unreasonable delay, on making such appointment, and on making every subsequent appointment, forward to the Minister a copy of the power of attorney relating to the appointment.

(2) For the purposes of this Ordinance the attorney of the holder of the concession shall be deemed to be the agent of such holder notwithstanding anything contained in the power of attorney to the contrary:

Provided that no act done and no omission made by the attorney contrary to the provisions of this Ordinance shall affect the liability of the holder of the said concession therefor.

45. No Government officer shall acquire, or hold, any right or interest under any concession, and any concession purporting to confer any such right or interest on any such officer shall be void. Government officers not to have interest in concession.

46. No copies of any plans lodged with the Chief Inspector of Mines and no information obtained by the Chief Inspector of Mines by virtue of powers conferred by this Ordinance shall be given by an officer of the Mines Department to any unauthorised person: nor shall any plans be open to the inspection of any such person without the permission of the holder of the concession or his attorney. Secrecy provisions.

47. The Governor and all persons authorised by him may, notwithstanding the issue of any certificate of validity, at any time— Powers of Governor over land in respect of which certificate of validity granted.

(a) take possession of any part of any land in respect of which such certificate has been granted, which in his opinion may be required for the purposes of any works or objects of public utility or convenience, without making any compensation therefor, except such as the Court may deem reasonable in respect of disturbance of, or interference with, the works or improvements erected or made by any holder of such certificate.

(b) use for any purposes any roads made on any such land.

(c) enter upon and inspect any such land for the purpose of ascertaining the condition thereof or for any other purpose which the Governor may think reasonable.

48. Any Court or registration fees, and any costs under section 24, and any expenses incurred under this Ordinance by any officer of the Court payable by any person claiming to be entitled to the benefit of a concession shall, without prejudice to any other means of recovery, be recoverable by action. Fees and expenses recoverable by action.

Certificate of Registrar *prima facie* evidence of fees, etc.

A certificate signed by the Registrar of the Court that such fees, expenses or costs are payable by such person shall be *prima facie* evidence of their being due.

Offences.

49. Every person who shall contravene, or permit the contravention, or who shall fail to comply with any of the provisions of sections 34, 35, 36, 37, 39, 40 and 44 of this Ordinance, or who shall fail to comply with any written notice or other direction lawfully given to him or any requirement lawfully made of him under any of the provisions of any of those sections, or who shall prevent, impede or otherwise obstruct any District Commissioner or any officer of the Mines, Geological or Survey Departments in the exercise of any power conferred upon him by section 39 of this Ordinance shall be guilty of an offence and shall be liable, on summary conviction,—

(1) in the case of an offence against section 38, to a fine not exceeding one hundred pounds and to a fine of five pounds in respect of each day or part thereof while the offence continues, and

(2) in the case of an offence against any other of those sections, to a fine not exceeding fifty pounds:

Provided that whenever it is proved to the satisfaction of the Court that an offence against the aforesaid sections of this Ordinance has been committed by any miner, workman or other person employed by the holder of the concession, such holder shall be held to be liable for such offence, and to the penalty provided therefor, unless he shall prove to the satisfaction of the Court that the offence was committed without his knowledge or consent, and that he had taken all reasonable means to prevent the commission of the offence;

And provided further that nothing in the foregoing proviso shall be deemed to exempt such miner, workman or other person from the penalties provided for the offence committed by him.

Recovery of penalties.

50. Any penalty imposed by this Ordinance and not declared to be for an offence shall be sued for in the name of some officer appointed by the Governor, and shall be recovered with full costs of suit.

Recovery of penalties.

51. All penalties imposed by this Ordinance and declared to be on account of an offence (with the exception of those mentioned in sections 32 and 44) shall be recovered summarily before the Supreme Court and if not forthwith paid, shall be levied by distress and sale of the offender's goods, and in default of sufficient distress it shall be lawful for the Court to commit

the offender to prison, with or without hard labour, for any period not exceeding twelve months unless the penalty be sooner paid.

52. In any prosecution under section 32, it shall lie on the defendant to prove that a licence to prospect has been duly granted to him or that he is exempt from having any such licence.

Burden of proof as to licences.

SCHEDULE A.

Section 21.

CERTIFICATE OF VALIDITY.

In the Supreme Court of Sierra Leone (Concessions Division).

Subject as below, the concession of.....of.....  
to.....of.....dated the.....day of.....19.....  
and registered on the.....day of.....at the office of  
the Registrar General and\*.....to which this certificate is attached  
(or on which the certificate is endorsed) is hereby declared to be valid.

*Boundaries, extent and situation of land in respect of which this certificate is given.*

*Nature of concession (briefly)—*

*Limitations, modifications and conditions imposed by the Court (in full).*

*Date of final order for issue of certificate.*

Given under my hand and the Seal of the Court at.....this  
.....day of....., 19.....

[L.S.]

*Signature of Judge.*

\* Omit as to attachment or endorsement if Court so declares.

SCHEDULE B.

Section 32  
(1).

LICENCE TO PROSPECT.

THE CONCESSIONS ORDINANCE.

Permission is hereby granted to (*name and address of licensee*) to prospect No.  
within the.....District (or Districts) of the Colony (or Protectorate)  
of Sierra Leone for timber, rubber or other products of the soil.

Dated this.....day of....., 19.....

*Governor.*

NOTE.— This licence is not transferable.

Sections 4  
(c), and 41.

### SCHEDULE C.

#### RULES TO BE OBSERVED BY PERSONS OBTAINING CONCESSIONS IN THE COLONY OR PROTECTORATE.

Application for concession.

1. Any person desiring to obtain a concession in the Colony or Protectorate must, in the first instance, apply to the Governor through the Minister for permission to obtain a licence to prospect.

District Commissioner to be informed.

2. The Governor, if the application appears to him to be one which should be granted, will so acquaint the District Commissioner of the District in which the concession is desired and will so advise the applicant.

District Commissioner may recommend licence.

3. The applicant must present his letter of advice to such District Commissioner, who, if he is unaware of any local objection to the application, will recommend to the Governor to issue a licence to prospect in the locality named by the applicant, and will at the same time acquaint the Tribal Authority or other native concerned and instruct them to give the necessary facilities.

Issue of more than one licence.

4. A licence may be issued to different prospectors for the same locality.

Removal of specimens by licence holder.

5. The holder of a licence to prospect may remove from the locality in which he has prospected a sufficient quantity of timber, rubber, or other products of the soil to serve as specimens, but he must declare them to the District Commissioner of the District in which he has prospected and state the name or position of the place or places from which they were taken. But this rule will not preclude any claim being brought against any prospector for compensation for damage done, or for the value of any product of the soil removed.

Concessions to be granted only to holders of licences to prospect.

6. The holder of a licence to prospect may apply to the Tribal Authority or other native concerned for a concession over land in the locality in which he was licensed to prospect, and the Tribal Authority or other native concerned may grant the concession if they are willing to do so, but no such application or grant may be made by or to any person not holding a licence to prospect in that locality.

District Commissioner's inquiry before concession granted.

7. Every application for a concession must be notified to the District Commissioner, who will instruct the Tribal Authority or other native concerned to appear before him and will ascertain from them in the presence of the applicant or his agent whether they are willing to grant the concession applied for, and are prepared to co-operate. The District Commissioner will arrange with the applicant or his agent, in the presence of the Tribal Authority or other native concerned, the sum which they should pay annually in consideration of the concession.

Execution or concession before District Commissioner.

8. The terms of the agreement made between the applicant and the Tribal Authority or other native concerned are to be embodied by the former in a concession which is to be executed by the interested parties in the presence of a District Commissioner; and the District Commissioner, before whom any such interested party executes such concession, shall certify to the due execution of such concession by such party. The concession is to contain full particulars of boundaries and a suitable plan showing the same.



9. Every application for a concession, which must be accompanied by the prospector's licence, shall, upon receipt by the District Commissioner, be marked by him with the date and time of receipt, and applications for concessions in the same locality shall be considered and dealt with in the order of their receipt.

Applications to be dealt with consecutively.