



SUPPLEMENT  
TO THE  
VICTORIA  
GOVERNMENT GAZETTE

OF TUESDAY, OCTOBER 11, 1859.

Published by Authority.

No. 160.]

WEDNESDAY, OCTOBER 12.

[1859.

ORDER IN COUNCIL

(Made under 21 Victoria No. 32, sec. xii.)

FOR

REGULATING MINING LEASES OF AURIFEROUS  
CROWN LANDS IN THE MINING DISTRICT OF  
MARYBOROUGH.

At the Government House, Melbourne, the tenth day of  
October, 1859.

PRESENT:

His Excellency the Governor

Major-General Macarthur	Mr. Chapman
C.B.	Dr. Evans, L.L.D.
Mr. O'Shanassy	Mr. Miller.

WHEREAS by an Act of the Parliament of Victoria, passed in the 21st year of Her Majesty Queen Victoria, No. 32, it was made lawful for the Governor to grant leases of any auriferous Crown lands, for mining purposes, for any term not exceeding ten years: AND WHEREAS by the same Act it was also made lawful for the Governor in Council from time to time to make such regulations, not being contrary to the said Act, as should appear to be necessary for prescribing the form of documents and leases to be issued under the same Act, the modes, times, dates, and places of the issue thereof, and the conditions on which such leases should be issued: AND whereas an Order in Council was made for regulating mining leases of auriferous Crown land in the mining district of Maryborough, on the 17th day of January, 1859, under the said Act. AND whereas it is expedient to amend the regulations contained in the said Order: Now therefore His Excellency the Governor, by and with the advice of the Executive Council, doth hereby rescind the said Order, and doth also, with respect to all leases which the Governor may grant as aforesaid of any auriferous Crown lands being in the mining district of Maryborough, make the regulations next following: PROVIDED that these regulations shall not affect the validity of applications for leases or anything done with respect to the same under the said Order in Council otherwise than is herein expressly provided.

WHAT LANDS MAY BE LEASED.

I. All auriferous Crown lands in the mining district of Maryborough may be leased under these regulations, except—

1. The whole or any part of any claim held under a miner's right by any person other than the applicant;
2. The whole or any part of any land which any person, other than the applicant, is entitled by virtue of a miner's right to occupy for residence, and actually does occupy *bonâ fide*;
3. The whole or any part of any land which any person, other than the applicant, is entitled by virtue of a business license to occupy, and does actually occupy *bonâ fide*;
4. The whole or any part of any land in or over which any person, other than the applicant, has any interest or authority other than those above mentioned which he

may lawfully use or exercise for mining purposes or for discovering the existence of gold:

5. The whole or any part of any land held by the applicant as a "protection claim for prospecting," or which shall have been so held within one week previous to the date of the application.

REQUIREMENTS PRELIMINARY TO THE ISSUE OF LEASES.

I. Every person applying for a lease of auriferous Crown lands in the mining district of Maryborough, shall apply for such lease by addressing to the Chief Secretary through the nearest Warden of the mining district an application in duplicate in the form in schedule hereunto appended marked A., and he or his agent shall at the same time, or as soon after as conveniently may be done, affix on the most conspicuous part of the ground applied for, a notice of application, with name and address of applicants, and shall indicate the area by four posts, placed at the northern and southern extremities of the ground so applied for; and the Warden shall, as soon as it may conveniently be done, enter or cause to be entered, in a book to be kept for the purpose, such application, numbered according to the order in which it shall have been received, and shall thereupon and upon receipt of the deposit in the application referred to, give to the applicant a certificate and receipt in the form in schedule hereunto annexed marked B., and the priority of every application shall be determined according to the time at which it was so received and entered as aforesaid.

II. At the time of applying as aforesaid for a lease, the applicant must deposit with the Warden (in addition to a sufficient sum to cover the charges of survey) the sum of Ten pounds, as a guarantee for payment of any expenses which may be incurred by reason of any objection to such application being allowed. And whether such objection shall be allowed or not, any surplus which may remain over expenses incurred shall be returned to the applicant.

N.B. Printed copies of the forms A., B., and C. will be issued at the offices of the Wardens of the district, free of expense.

OFFICIAL SURVEY.

I. Upon receipt of such application and money aforesaid, the Warden shall direct a surveyor to proceed to the land applied for, and survey the same, and furnish the Warden with a report thereon as to the area, boundaries, and description thereof, and the character of the ground, accompanied by a plan thereof on the scale of two chains to the inch, together with a tracing of so much of the general map of the district, on the scale of four inches to a mile, as will suffice for connecting the particular area applied for with at least one fixed point in the district; and the Warden shall transmit such report, plan, and tracing to the Chief Secretary with as little delay as under the circumstances may be possible.

II. When the surveyor shall proceed to make his survey he shall mark out the land applied for by causing a post to be fixed at each angle thereof, standing at least three feet in height above the surface of the ground; and shall affix upon some conspicuous place within the boundaries of the land applied for, a notice dated on that day, setting forth in the form in the schedule hereunto annexed, marked C., the description of the land applied for, and the address of the applicant,

and the steps to be taken by any persons desirous of objecting to the issue of such lease.

III. In the event of more than one application having been or being hereafter made, for the same land or any part thereof, each of such applications shall be dealt with according to its priority.

**OBJECTIONS.**

I. Any person objecting to the issue of such lease to any applicant shall, within ten days after the date of the last-mentioned notice, forward to the Warden of the district, and also to the applicant at the address stated in said notice, full particulars of all objections against the issue of such lease to the applicant.

II. Every person so objecting shall (except in cases of interference or encroachment which the Warden has authority to adjudicate upon under the provisions of the Gold Fields Act) deposit with the Warden the sum of Five pounds as security for the due prosecution of his objections, and in satisfaction of all expenses to which the applicant may be put by such objections; and if such objections should not be prosecuted, or shall fail, so much of such sum shall be handed over to the applicant as may by the Warden be declared necessary to defray the expenses of the applicant, and the balance (if any) shall be refunded to the person objecting.

III. When any person shall object to the issue of a lease of any area applied for, and shall also be desirous of obtaining a lease of the same area, he shall accompany his objections with an application, and shall fully comply with the regulations relating to applications.

**ENQUIRY INTO APPLICATIONS AND OBJECTIONS.**

I. After the expiration of the ten days, exclusive of Sunday, Good Friday, and Christmas Day, allowed for objections, the Warden shall proceed to hold, at a time and place to be named by him, an enquiry into the truth of the particulars stated by the applicant and of the objections made by each objector.

II. At such enquiry the Warden or other officer shall receive such information as the parties may offer, and-as he may think pertinent to his enquiry; and immediately after such enquiry, or, should there be no objections, immediately after the expiration of the ten days allowed for objections, he shall forward to the office of the Chief Secretary the application and objections thereto, if any, and his report thereon.

**LEASES.**

I. All leases to be applied for and which it may be proposed to grant, shall be designated "Gold Mining Leases," and the distinction between leases of alluvial lands and leases of quartz ground shall henceforth be abolished and cease.

II. The Governor may, if he shall think fit, issue to any applicant who has complied with such of these regulations as refer to his application, a lease of the land applied for, or any part thereof, after the time prescribed by the eleventh section of the Gold Fields Act, viz., One month after notice of the intention to grant the same shall have been published in the *Government Gazette*.

III. In any case in which an application shall have been made in pursuance of these regulations for a lease of land in any part of which any person other than the applicant may be entitled to cut, construct, or use any race or dam, or to any other easement for mining purposes, the Governor may, if he shall think fit, authorise the issuing of a lease of such land subject to all existing rights in, to, or to the use of such race, or dam, or other easement, and impose such terms as the said Governor may think fit, in order to secure the enjoyment of the same, or to secure compensation for any injury or inconvenience likely to arise to such person by reason of the issuing of such lease.

IV. Every lease will bear *date* the day of the execution thereof, and may be obtained at the office of the Warden, who shall deliver the same to the applicant, or such person as shall be duly authorised to receive the same, upon receipt of a fee of £1.

V. *The parcel of land demised shall be in all cases in the form of a quadrilateral figure (except where it is impracticable by reason of the adjoining land being occupied, or from insuperable impediments), and the maximum length thereof shall not, except as hereinafter provided, exceed more than twice the maximum breadth, and shall be described in the lease by such metes and bounds as shall have been reported by the surveyor and approved by the Chief Secretary, upon report of the Warden.*

VI. *The term of the lessee in the land demised cannot in any case exceed ten years.*

VII. *The extent of the areas of leases shall be, except in Special cases hereinafter provided for, not more than twenty-five acres nor less than two.*

VIII. *The rents reserved shall be at the rate of Five pounds per annum per acre.*

*The said rents shall be made payable half-yearly in advance during the entire term, and the day of the execution of the lease shall be deemed to be the day upon which the first payment shall be made.*

IX. In all leases, whether already applied for or hereafter to be applied for, the land shall be demised, and the rent reserved, as herein prescribed.

**SPECIAL CASES.**

I. Whenever any person shall have purchased the right, title, or interest of any puddler or miner to or in any land

intended to be applied for on lease, such puddler or miner may continue to work and mine the said land if an agreement has been or shall hereafter be entered into to that effect between the parties, until the applicant receives his lease and requires the use of the said land, and it shall not be competent for any Commissioner of Crown Lands to remove any such person contrary to the agreement so entered into: Provided, however, that the Warden shall be the judge who shall decide conclusively as to the existence and validity of such agreement.

II. In cases where it shall be shown that a departure from the foregoing areas or rents would under special circumstances be desirable, the same may be diminished, extended, or otherwise altered by the Governor, and such covenants, conditions, and stipulations may be imposed, and such rents and royalties reserved, as by the said Governor may be considered necessary; provided that the Warden shall not investigate any application for a greater or less extent of land than the maximum or minimum quantities hereinbefore stated, without a special order from the Chief Secretary; and further, provided that any such special application already made or which shall hereafter be made shall take its priority, as in cases of ordinary applications.

**SCHEDULE A.**

(Form of Letter of application for Lease.)

To [Place and Date.]

The Honorable the Chief Secretary,  
at

Sir,

I herewith deposit the sum of Ten pounds as required by the Mining Leases Regulations of this Gold Field: and I agree, if my application (the particulars of which are hereunder set forth) be investigated, that such sum shall in all respects be held by the Warden, subject to, and may be appropriated by him, under the terms of such regulations, and that upon the approval of this application I will execute a lease upon the basis therein stated, if the Governor shall think fit to grant the same.

I have the honor to be,

Sir,  
Your obedient Servant,

Name of applicant or applicants and style under which it is intended that the business shall be carried on.				
Amount of money proposed to be invested.	£	s.	d.	
Value and kind of machinery included in foregoing column.	£	s.	d.	
Minimum number of men that will be employed thereon in mining operations.	1			
(1) Precise locality: (2) Term (3) Time of commencing operations.	(1) Locality	(2) Term	(3) Time of commencing operations	
General Remarks.				

SCHEDULE B.  
(Form of Certificate.)

[No. as entered in Book.]  
I hereby certify that \_\_\_\_\_ has, this day, at \_\_\_\_\_  
is to say \_\_\_\_\_ applied to me at the time following, that \_\_\_\_\_  
described in his application, and has paid the sum of Ten o'clock for a lease of the land  
pounds, as preliminary expenses, and that the above is the sum of Ten  
order of his priority of application in respect of such land. pounds, as preliminary expenses, and that the above is the  
(Signed) \_\_\_\_\_ order of his priority of application in respect of such land.

Date, \_\_\_\_\_ Place, \_\_\_\_\_ 185 \_\_\_\_\_

SCHEDULE C.

(Form of Notice to be posted on the land by the Surveyor.)

To all persons whom it may concern.

NOTICE OF APPLICATION FOR GOLD MINING LEASE.

I hereby give notice that \_\_\_\_\_ did, on  
the \_\_\_\_\_ day of \_\_\_\_\_ apply to the Warden  
at \_\_\_\_\_ for a mining lease of [acres or  
yards] of the land which, under the direction of the said War-

den, I have this day marked out with posts; and that any person desiring to object to the issue of said lease must enter his objection within ten days from this date at the office of the Warden. And I further give notice that the said land is, by direction of His Excellency the Governor, exempted from occupation for any purpose whatsoever, and that any person occupying the same without having first obtained special authority for that purpose, will be dealt with according to law.

\_\_\_\_\_  
Surveyor.

And the Honorable Richard Davies Ireland, Her Majesty's Solicitor General for Victoria, shall give the necessary directions herein accordingly.

J. MOORE,

Acting Clerk of the Executive Council.

