

CHAPTER 147.

ASPHALT INDUSTRY REGULATION.

AN ORDINANCE TO REGULATE THE CARRYING ON OF THE ASPHALT INDUSTRY.

Ordinances
No. 10 of 1906,
,, 29 of 1925,
s. 15.

[11th May, 1906.]

1. This Ordinance may be cited as the Asphalt Industry Regulation Ordinance. Short title.
2. This Ordinance shall apply to the Island of Trinidad. Application of Ordinance.
3. In this Ordinance—
 - “ Agent ” means any person appointed as the representative of the owner, notification of such appointment having been given in writing by the owner to the Inspector of Mines; Interpretation.
 - “ Owner ” means any person or body corporate who is the immediate proprietor or lessee or occupier of any asphalt-bearing land, and does not include a person or body corporate who receives a royalty, rent, or fine from or is the proprietor of such land subject to any lease or grant for the working thereof, or is the owner of the soil and not interested in the asphalt thereof;
 - “ Regulations ” means the regulations contained in the First Schedule to this Ordinance or any regulations made under section 6 of this Ordinance, and for the time being in force.
4. A Mining Engineer may be from time to time appointed to carry out the provisions of this Ordinance, at such salary as the Governor, with the consent of the Legislative Council, may from time to time appoint. Such Engineer, who is hereinafter referred to as “ the Inspector of Mines,” shall be assisted by such officers at such remuneration as the Governor may, with like consent, from time to time appoint. Appointment of Inspector.

Powers of
Inspector.

5. (1) The Inspector of Mines shall have power to do all or any of the following things, namely :—

- (a) To make such examination and enquiry as may be necessary to ascertain whether the provisions of this Ordinance and the regulations are complied with;
- (b) To enter, inspect, and examine any land upon or in which any digging operations are being carried on under this Ordinance at all reasonable times by day and night, but so as not to impede or obstruct such digging operations;
- (c) To exercise such powers as may be necessary for carrying this Ordinance and the regulations into effect;
- (d) To delegate any of the powers exercisable by him under this Ordinance to assistants duly appointed hereunder.

Obstructing
Inspector.

(2) Every person who wilfully obstructs the Inspector of Mines or any of his assistants in the execution of his or their duty, and every owner, agent, or servant who refuses or neglects to furnish to the Inspector or his assistants the means necessary for the making of any entry, inspection, examination, or enquiry in relation to any diggings being carried on under this Ordinance shall be guilty of an offence.

Regulations.

6. (1) It shall be lawful for the Governor in Executive Council to make regulations in addition to or in place of the regulations contained in the First Schedule to this Ordinance, or any of them.

(2) All such regulations shall be laid before the Legislative Council at least thirty days before the time at which the same are to come into operation, and may be sanctioned or disallowed by vote of such Council in whole or in part, but shall not be amended except by permission of the Governor, and so far as not disallowed shall come into force on the day therein fixed, or on any subsequent day approved by the Governor in Legislative Council in that behalf, and shall have effect in all respects as if the same had been contained in this Ordinance.

7. The costs and expenses of the inspection and control hereby authorized, including the salaries of the Inspector of Mines and of any assistants who shall be appointed, shall be defrayed out of such moneys as may from time to time be allotted for the purpose by the Governor and Legislative Council out of the general revenue of the Colony.

Expenses of working Ordinance.

8. It shall be lawful for the Governor to declare any land within the Island of Trinidad to be asphalt-bearing land; any land so declared shall be described in such declaration. The term "asphalt-bearing land," when used in this Ordinance, shall signify the land or any part of the land so described.

Governor may declare asphalt-bearing land.

9. (1) No excavations or digging operations shall be begun or carried on in asphalt-bearing land save after notice to commence, in writing, given to the Inspector of Mines and in accordance with the terms of such notice. Such notice when received by the Inspector of Mines shall be entered in the Mining Register, shall bear date as of the day when it is so entered, and shall be given by the owner of the land in which the digging operations are to be carried on or by his agent, and not otherwise.

No digging without notice.

Such notice shall not be deemed in any Court whatever to be presumptive evidence of ownership of the land therein specified.

The commencement or carrying on of excavations or digging operations in contravention of this section shall be deemed to be an offence against this Ordinance.

(2) The owner or his agent who gives notice to commence may at any time obtain from the Inspector of Mines a certificate of the entry of such notice in the Mining Register and of the date of such entry: Provided always, that the Inspector of Mines shall not be required to issue any such certificate in respect of any notice which may have been determined by notice of termination of the digging operations, or may have been cancelled in the Register: Provided also, that the Inspector of Mines shall not be required to issue more than one such certificate in respect of any one notice, save upon payment of a fee of five shillings (payable in stamps) in respect of every such certificate in addition to the first.

Certificate of entry of notice.

Particulars
to be given
in notice.

(3) Such notice to commence shall describe the land to be excavated, and shall certify that the boundaries within which the operations are to be confined have been duly marked out, and shall fix the period within which digging shall be commenced, which period shall be not less than thirteen, and not more than twenty-one clear days after the date of the notice, unless, for good cause shown, the Inspector shall think fit to shorten such period.

Revocation
of notice.

(4) Such notice to commence may, at any time before digging operations are begun, be revoked by the owner of the land or his agent; or if the notice shall relate to more than one parcel of land owned in severalty, such notice may be revoked by any one of the several owners or his agent so far as his parcel of land is concerned.

Lapse of
notice.

(5) If any such notice to commence is revoked or when the time for the commencement for digging operations shall have expired, if no such operations shall have been commenced, such notice shall be deemed to have lapsed and an entry thereof shall be made in the Mining Register.

Termination
of notice.

(6) The owner or agent who has given notice to commence as aforesaid may, within seven days after completing digging operations, give in writing notice of termination to the Inspector of Mines. Upon receiving notice of termination the Inspector of Mines shall forthwith enter the same in the Mining Register, and such entry shall determine the notice to commence in respect of the digging in question. So long as any notice to commence remains undetermined and unrevoked, the giver of such notice shall, for all purposes and in all Courts, be deemed to be continuing digging operations. A certificate of entry of notice of termination may be obtained in like manner as a certificate of entry of notice to commence.

Forms of
notice, etc.

(7) The notices and certificates provided for in this section shall be in the Forms 1, 2, 3, and 4 in the Second Schedule to this Ordinance, or to the like effect.

Application
for permit.

10. Any owner of asphalt-bearing land or his agent may at any time apply to the Inspector of Mines for a permit to dig asphalt in accordance with the provisions of this Ordinance. Such application shall be according to Form 5 and such permit if granted shall be according to Form 6 in the Second Schedule, and such applications and permits shall be made and issued under the regulations, which

shall be observed by every person digging by virtue of a permit and by all persons employed by him or under his superintendence.

11. (1) Not less than seven days after the termination of each and every digging operation conducted by virtue of a permit, the holder of the permit shall give notice in writing of the termination of such digging to the Inspector of Mines. Such notice shall specify the date upon which the said digging operations have terminated.

Notice of termination of digging.

(2) Entry of such notice shall be made in the Mining Register, and a certificate of such entry shall be obtainable in like manner as described in section 9 of this Ordinance.

(3) All issues and determinations of permits shall be published in the *Royal Gazette*.

12. Any owner or agent of asphalt-bearing land out of which material, whether asphalt or other constituent of the soil, passes in consequence of any excavation, whether conducted by virtue of a permit or otherwise, may apply to the Inspector of Mines for a certificate of the quantity of material lost to such complaining owner by reason of such excavation, as hereinafter provided. Every such application shall be made not later than thirty days after the date of the termination of the digging, and, unless made by an officer of the Crown in respect of Crown lands, shall bear stamps to the value of five pounds.

Application for certificate of loss of material.

13. The complaining owner or his agent shall, at a date not later than six days from the date of his application for such a certificate as aforesaid, give notice in writing of the application to the person affected thereby. Such notice may be sent by post, and shall be deemed to be duly given, if within the space of six days hereby limited a prepaid letter containing the notice and directed to such person at his registered address is delivered to the Post Office. The Supreme Court or a Judge thereof may, at any time for good cause shown, extend the time for giving such notice. No proceedings shall be taken on any such application unless and until notice thereof has been given to the person to be charged in such proceedings.

Notice of application for certificate of loss.

14. The Inspector of Mines, upon receiving an application as aforesaid, shall appoint the earliest convenient day for the consideration of the same and shall give notice

Procedure for granting certificate of loss.

of the appointment to the applicant and to the person affected thereby, and he may, by notice to the parties, from time to time adjourn the consideration or vary the appointment at his discretion. The Inspector of Mines or an assistant deputed by him in that behalf shall visit and inspect the land in question and shall measure up and determine the volume of depression, if any depression be caused. The Inspector of Mines may, if he considers it necessary, hear the parties in difference before arriving at his decision, but no costs of attendance before the Inspector of Mines shall in any case be awarded to any party.

Issue and
effect of
certificate of
loss.

15. The Inspector of Mines, if he is satisfied that the digging operations complained of have unduly depleted any asphalt-bearing land, shall issue a certificate to that effect, notice of which shall be given to the parties in difference, and which certificate shall contain a statement of the quantity of material which has been lost to the complaining owner by such undue depletion, and of the properties into which it has so passed. The certificate when issued shall have the same effect as an award by an arbitrator upon a submission in which the allegation that the land claimed by the complaining owner is asphalt-bearing land, the allegation that the disturbance complained of was caused by the operations of the owner complained against or his agent, and the quantity of the material lost to the complaining owner were matters in question between the parties, and on these points the certificate, when granted, shall be final and conclusive between the parties. The complaining owner in whose favour such a certificate is granted shall be entitled, subject to establishing his title to the land specified in the certificate as the land from which the material has been caused to pass, to recover a quantity of good merchantable asphalt equal to the quantity of material so certified, to be delivered to him free of cost at such place at La Brea, within reasonable distance of the excavation, as the Inspector or the Supreme Court or a Judge thereof may direct, or he may, at his option, recover payment for the same at the current price of asphalt at La Brea :

Provided, nevertheless, that the Court or Judge may order the payment of damages in respect of the disturbance complained of instead of the restitution of asphalt in kind. If the complaining owner recovers under any such certificate a sum of not less than five pounds or asphalt to the

value of five pounds at the least, he shall be entitled to recover, in addition thereto, the further sum of five pounds by way of reimbursement in respect of stamps, unless an order to deprive him thereof is specially made by the Court or Judge. But in any other case he shall not recover anything in respect of the stamps affixed to his application as aforesaid.

16. No injunction shall be granted nor any proceedings had upon any injunction heretofore granted by the Supreme Court to restrain any digging or removal of asphalt from land, which digging or removal is carried on by virtue of a permit, unless it is proved that the digging has been conducted in contravention of the said permit.

No injunction to restrain digging, etc., under permit.

17. No action for loss of asphalt or other constituent of the soil resulting from digging operations, conducted in accordance with a permit, shall lie unless founded upon a certificate issued by the Inspector of Mines under section 15 of this Ordinance.

No action for loss of asphalt due to operations under permit.

18. Nothing in this Ordinance contained shall be construed to deprive any person of any right of action accruing to him—

Saving certain rights of action.

- (1) by reason of any excavation unlawfully conducted on the land of such person; or
- (2) in respect of any damages or loss occasioned to him by reason of any excavation in land adjacent to or in the neighbourhood of his land, conducted otherwise than in accordance with the provisions of this Ordinance.

19. No proceedings shall be taken under the Crown Lands Ordinance against any person in respect of any digging operations conducted under the provisions of this Ordinance.

Proceedings under Crown Lands Ordinance. Cap. 158.

20. (1) Any owner of asphalt-bearing land or his agent desiring to obtain a permit shall enter into a bond with one or more sureties to be approved by the Auditor in the sum of two hundred and fifty pounds for the due observance of this Ordinance and of the regulations in respect of all diggings to be carried on by him or under his authority by virtue of such permit.

Applicant for permit to enter into bond.

(2) Such bond shall be given to the Inspector of Mines and his assigns and may be enforced by him by action

brought in his official name, and shall be in the Form 7 in the Second Schedule to this Ordinance.

(3) Whenever, by reason of the death, departure from the Colony, or bankruptcy of any party to any bond given as aforesaid, such bond shall, in the opinion of the Auditor (to be signified in writing to the Inspector of Mines), become an insufficient or unsatisfactory security, the Inspector of Mines may thereupon, by notice in writing, require the owner or his agent to enter into a new bond by a date to be limited in such notice, and if such new bond be not given accordingly the permit shall, upon the expiration of the time so limited, be suspended until the said notice is complied with.

(4) The owner or his agent may at any time give notice of his desire that the bond should be discharged. From the date of such notice any permit held by virtue of such bond shall lapse, and thirty days thereafter the bond may be discharged, and shall be so discharged unless complaint shall have been laid of loss of asphalt or other constituent of the soil in respect of any digging by virtue of such permit. If any such complaint shall have been laid, the bond shall remain in force until the complaint in question shall have been decided.

Mining
Register.

21. There shall be kept at the office of the Inspector of Mines a book called the Mining Register, wherein shall be entered:—

- (1) Entry of all notices required by this Ordinance and the regulations;
- (2) Dates of receipt of notices;
- (3) Addresses of owners and agents;
- (4) Particulars of permits.

Penalties for
offences.

22. Every person who is guilty of an offence against this Ordinance or the regulations shall be liable, on summary conviction before a Magistrate or Justice, to a penalty not exceeding twenty pounds for each offence.

Rules of
Court.

23. It shall be lawful for the Chief Justice, with the concurrence of a Puisne Judge, to make Rules of Court in regard to the procedure to be followed in all cases brought before the Supreme Court or a Judge thereof under this Ordinance.

24. The plan prepared by H. J. Massy under and in accordance with the provisions of the La Brea Survey Ordinance, 1905, dated the thirty-first day of July, 1907, and approved by the Legislative Council on the first day of February, 1909, and any copy thereof certified to be a true copy by the Crown Surveyor, shall be admissible in evidence in all Courts of the Colony, and shall be conclusive evidence of the boundaries of the lots and the lines of the roads and streets shown thereon. (*Added by 29 of 1925, s. 15.*)

Plan of
La Brea.

25. The provisions of this Ordinance shall not apply to the area of the Pitch Lake leased by deed of Concession dated the 12th day of July, 1888, and made between Her Majesty the Queen of the one part and Joseph Weedon Previté, Henry Alfred Greig, and the New York and Trinidad Asphalt Company of the other part, during the continuance of such Lease or of any extensions thereof, but shall apply thereto immediately after the expiration or sooner determination thereof.

Application
to Pitch
Lake.

FIRST SCHEDULE.

REGULATIONS.

(Section 6.)

THE following regulations shall apply to all diggings conducted by virtue of a permit issued under section 10 of this Ordinance:—

1. (1) All proposed excavations must be marked out on the ground before any digging operations are commenced, and the marks approved by the Inspector. The extreme line shall in no case be within two feet of the limit of the boundaries of the property within which the excavation is to be made: Provided that for this purpose adjacent lots shall, when they are in the possession for the purpose of excavation of one owner or his agent, be deemed to be one property.

(2) Any person who shall knowingly remove any marks placed for the purpose of marking out any digging after they shall have been approved of by the Inspector shall be guilty of an offence against this Ordinance.

2. (1) Any owner or his agent may make his application to the Inspector of Mines for a permit to dig, upon a printed form in which the terms and conditions of the proposed permit shall be clearly set out, that is to say, the application shall state—

- (a) the boundaries of the land on which the excavation is to be made;
- (b) the boundaries of the proposed excavation, such boundaries having been previously marked out by means of pegs not less than 3 inches in diameter, and projecting not less than 18 inches above the surface of the soil and penetrating 18 inches below the surface of the soil;
- (c) the depth to which the proposed excavation is to be carried;
- (d) the approximate total weight of material proposed to be extracted from the said property;

- (e) the date, not being less than fourteen days from the date of application, at which the applicant is to be at liberty to commence operations, and the time within which he will undertake to finish operations under the permit; and
- (f) any special terms which the applicant desires to have inserted in the permit.

(2) The application shall contain a general notice that persons interested in opposing the issue of the permit may lodge with the Inspector notice of their opposition and the grounds thereof, within seven days of the date of the receipt of the application by the Inspector.

(3) The application shall be drawn up in the Form 1 in the Second Schedule, or in such other form as the Inspector may approve, and shall be furnished in duplicate to the Inspector, one of such duplicate forms at least being signed by the applicant.

(4) The Inspector shall forthwith, on receipt of such application, cause to be entered the date of its receipt by him upon the two copies thereof, and shall cause one copy of such application to be affixed for public notice in a conspicuous place for that purpose provided at La Brea.

(5) If no opposition is notified, the Inspector, immediately upon the expiration of seven days from the date on which the application was received by him, shall proceed to settle the terms upon which the permit shall be granted, or if he decides to refuse the said permit, he shall give notice to the applicant to that effect and of his reasons for such refusal. In such case the permit or notice of its refusal shall be given to the applicant at most within three days from the expiration of the said seven days.

(6) If opposition is notified, the Inspector may, in his discretion, issue a permit on such terms as he shall consider fit, or he may refuse the permit on the grounds of the said opposition, or he may appoint a time for hearing the applicant and the opponent or opponents, such appointed time to be not later than seventeen days from the date of the receipt of the application.

(7) After hearing the parties, the Inspector shall forthwith, and in any case within three days, decide upon the issue or refusal of the permit, and shall issue or refuse it accordingly.

(8) No refusal of any application shall be held to prejudice the consideration of a fresh application in respect of the same property by the same or by any other applicant.

(9) A permit when issued shall be in writing, and may be in the Form 6 in the Second Schedule, or to the like effect. Until the issue or refusal of such a permit, no digging operations or excavations shall be commenced on the land for which a permit has been applied for. The Inspector may, for good cause shown, extend the time within which the digging operations shall be concluded.

3. The permit given for any excavation may specify at the discretion of the Inspector a starting line for the excavation, which line shall form part, or, as the case may be, the whole, of the boundary of the excavation. The boundary face of the excavation shall in no case be pared off or worked under such permit after it has been dug.

4. Every permit shall specify the maximum quantity of material to be extracted from the excavation. To secure the observance of the limit thus set, the owner or his agent shall, once a week or from time to time when required, submit to the Inspector of Mines a properly verified list or account of material removed from the excavation. The removal of any substantial excess of material beyond the quantity permitted shall be deemed a breach of these regulations. The Inspector of Mines shall have power to determine in every case what excess amounts to a substantial excess within the meaning of this regulation.

5. The Inspector of Mines, if he thinks fit, shall have power to add to the permit the angle at which the gradient through superincumbent soil is to be maintained. If no angle is mentioned, the digger may dig at any angle through the superincumbent soil.

6. In cutting through asphalt, a gradient shall be maintained at such angle as specified in the permit and shall in no case be steeper than 85° to the horizontal. The depth of every excavation shall be such as may be prescribed in the permit.

7. Any transgression of the permit shall be deemed to be a breach of these regulations, and as from the date of such transgression the permit shall be deemed to have been cancelled.

SECOND SCHEDULE.

FORMS.

No. 1.

NOTICE TO COMMENCE.

(Section 9.)

I, A.B., hereby give notice, in accordance with the terms of the Asphalt Industry Regulation Ordinance, that I propose to excavate the parcel or lot of land situate at

(a) The said parcel or lot of land is bounded as follows :—

N. S.
E. W.

(b) The boundaries of the proposed excavation have been duly marked out by means of pegs not less than 3 inches in diameter and not less than 18 inches above and 18 inches below the surface of the soil.

Dated this _____ day of _____

Signed _____

No. 2.

CERTIFICATE OF ENTRY OF NOTICE TO COMMENCE.

(Section 9)

I hereby certify that I have entered in the Mining Register a notice to commence digging operations dated _____ and made by _____ in respect of the parcel or lot of land bounded as follows :

Date _____

Inspector of Mines.

No. 3.

NOTICE OF TERMINATION.

(Section 9.)

I hereby give notice that I have terminated digging operations on the parcel or lot of land bounded as follows :
in respect of which notice to commence was given on _____

Owner (or Agent)

No. 4.

CERTIFICATE OF ENTRY OF NOTICE OF TERMINATION.

(Section 9.)

I hereby certify that I have entered in the Mining Register a notice of termination of digging operations dated _____ and given by _____ in respect of the parcel or lot of land bounded as follows :

Inspector of Mines.

No. 5.

APPLICATION FOR PERMIT.

(Section 10.)

I hereby apply for a permit to excavate the parcel or lot of land situate at _____ subject to the following terms and conditions :—

(a) The said parcel or lot of land is bounded as follows :

N. S.
E. W.

(b) The boundaries of the proposed excavation have been duly marked out.

(c) The proposed excavation shall not exceed _____ feet in depth.

(d) No more than _____ tons of material shall be extracted from the excavation.

(e) Operations will commence on the _____ day of _____ and conclude before the _____ day of _____

(f) (Here insert any special terms, if any).

Dated this day of (Signed) A.B.

Notice is hereby given that persons interested in opposing the issue of the permit hereby applied for must lodge with the Inspector a notice of their opposition and the grounds thereof within seven days of the day of

Dated this day of (Sgd.) A.B.
Inspector of Mines.

No. 6.

(Section 10.)

PERMIT.

A.B. is hereby permitted to excavate the parcel or lot of land situate at subject to the following terms and conditions in pursuance of the Asphalt Industry Regulation Ordinance and the Regulations thereunder:—

(a) The said parcel or lot of land is bounded as follows:—

N. S.
E. W.

(b) The boundaries of the excavation shall be maintained as follows:—

(c) The excavation shall not exceed feet in depth.

(d) No more than tons of material shall be extracted from the excavation. The owner or his agent shall submit to the Inspector a verified report of the quantity of soil and asphalt respectively removed every

days.

(e) Operations shall commence on day of and shall be concluded before day of

(f) Special terms (if any)

Signed Inspector of Mines.

Date:

No. 7.

(Section 20.)

BOND.

KNOW ALL MEN BY THESE PRESENTS that we and (sureties) of , are held and firmly bound jointly and severally unto Inspector of Mines and his assigns in the sum of Two hundred and fifty pounds sterling to be paid to the said Inspector of Mines or his assigns for which payment to be well and truly made we jointly and severally bind ourselves firmly by these presents:

Whereas the said has applied for a permit under the Asphalt Industry Regulation Ordinance, in respect of a parcel of land bounded as follows:

(here describe as in application.)

And Whereas the said and have agreed to join with the said in the above written bond or obligation subject to the conditions hereinafter specified as sureties for the due fulfilment of the said conditions:

Now Therefore the condition of the above written bond or obligation is such that if the said shall from time to time and at all times during the continuance of the said permit duly observe the provisions of the said Ordinance and the Regulations for the time being in force thereunder in respect of all digging operations carried on by virtue of the said permit then the above written bond or obligation shall be void otherwise shall remain in full force and effect.

Dated this day of

Signed and delivered by the above-named in the presence of