

Queensland



ANNO VICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 47 of 1974

An Act to amend the Mining Act 1968–1974 with respect to royalties payable in respect of mineral won or of mineral-bearing ore removed, to provide for the construction of agreements and undertakings that provide for the payment of such royalties, and for related purposes

[ASSENTED TO 17TH SEPTEMBER, 1974]

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

1. Citation. (1) This Act may be cited as the *Mining Royalties Act* 1974.

(2) In this Act the *Mining Act* 1968–1974 is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Mining Act 1968-1974*.

2. Commencement of Act. This Act shall commence on a date fixed by Proclamation.

3. Repeal of and new s. 70. The Principal Act is amended by repealing section 70 and substituting the following section:—

“ 70. Payment of royalty on mineral won. (1) A person who wins from any land mineral that is the property of the Crown shall pay as prescribed for the time being royalty to the Crown in respect of such mineral.

(2) The Governor in Council, by regulations made pursuant to section 106, may prescribe that royalty payable to the Crown in respect of mineral, whether the obligation to pay such royalty arises under this Act or under any agreement made with the State of Queensland or under any undertaking given by any person, shall be calculated at such rate or rates, in such manner and on such basis or bases as he, in his unfettered discretion, thinks fit, and, by like regulations, may provide for the collection and enforcement of the payment of such royalty.

(3) Without limiting the authority of the Governor in Council to regulate with respect to the payment of royalty, a rate of royalty and the manner and basis of its calculation—

- (a) may be prescribed by reference to the quantity of mineral-bearing ore removed or by reference to the quantity of mineral won;
- (b) may be prescribed by reference to a proportion of the profits made from mining operations or from a particular mining operation or of the gross proceeds of the sale or disposal of the product of mining operations or of a particular mining operation;
- (c) may vary as between royalties payable in respect of different minerals;
- (d) may vary as between royalties payable by the same person or by different persons whether—
 - (i) in respect of the same mineral or different minerals;
 - (ii) in respect of mineral won at the same place or at different places;
 - (iii) in respect of mineral won at the same point in time or at different points in time;
 - (iv) in respect of mineral won by the same method of mining or by different methods of mining;

- (e) may be prescribed to apply generally throughout the State or in any prescribed locality of the State;
- (f) may be prescribed in respect of all mining operations in the State or in respect of a particular mining operation or in respect of the mining operations of a particular person.”.

4. **New s. 70A.** The Principal Act is amended by inserting after section 70 the following section:—

“**70A. Resolving inconsistency between differing royalty provisions.** Where there is inconsistency between the requirements of the regulations and the provisions of any agreement made with the State of Queensland or of any undertaking given by any person (whether made or given before or after the commencement of the *Mining Royalties Act 1974* and whether or not such provisions have the force of law) as respects the royalty payable to the Crown in respect of mineral won or mineral-bearing ore removed in any mining operation or as respects the manner or basis of its calculation, the requirements of the regulations shall prevail and the royalty payable and the manner and basis of its calculation shall be as prescribed by the regulations, and any amount of royalty paid pursuant to such agreement or undertaking in relation to any period shall be offset against the amount of royalty duly payable pursuant to the regulations in relation to the same period.”.

5. **Operation of regulations.** (1) Regulations may be made with respect to matters referred to in section 70 of the Principal Act, as amended by this Act, after the passing of this Act.

(2) Notwithstanding section 107 of the Principal Act or any rule of law to the contrary, regulations first made after the passing of this Act with respect to any matter referred to in section 70 of the Principal Act, as amended by this Act, may be expressed to operate on and from 1 August 1974 or on and from any date subsequent to that date, and, in that event, shall have force and effect in law on and from the date so expressed.

6. **Continued operation of agreements and undertakings.** The rights and obligations of—

- any party to an agreement; or
- any person who has given an undertaking,

such as is referred to in section 70A of the Principal Act, as amended by this Act, shall not be affected (save as is prescribed by that section and by any regulation made with respect to any matter referred to in section 70 of the Principal Act as so amended), nor shall any action be brought in any court in relation to such an agreement or undertaking, by reason of the enactment of this Act or by reason of any act done under the authority of the amendment made by this Act to the Principal Act or under the authority of such a regulation.

7. Amendment of Coal Mining Act. The *Coal Mining Act 1925-1974* is amended by repealing sections 13 and 31.

That Act as amended by this Act may be cited as the *Coal Mining Act 1925-1974*.