



Queensland

Mines and Energy Legislation Amendment Regulation (No. 2) 2008

Subordinate Legislation 2008 No. 158

made under the

Mineral Resources Act 1989

Petroleum and Gas (Production and Safety) Act 2004

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Mines and Energy Legislation Amendment Regulation (No. 2) 2008*.

2 Commencement

This regulation commences on 1 July 2008.

Part 2 Amendment of Mineral Resources Regulation 2003

3 Regulation amended in pt 2

This part amends the *Mineral Resources Regulation 2003*.

4 Amendment of s 31 (General royalty payable under the Act)

(1) Section 31(1), paragraphs (a) and (b)—

omit, insert—

‘(a) for a prescribed mineral, until 31 December 2010—

(i) if subparagraph (ii) does not apply—the fixed rate for the mineral; or

(ii) if the person elected to pay royalty for the mineral at the variable rate—the variable rate for the mineral;

(b) for a prescribed mineral, from 1 January 2011—the variable rate for the mineral;

(c) for another mineral—the rate stated for the mineral in schedule 4, part 2.’

[s 5]

- (2) Section 31(2), ‘for a relevant 5 year period for the mineral’—
omit, insert—
‘within the 5 year period ending 31 December 2010’.
- (3) Section 31(2), ‘relevant 5 year period.’—
omit, insert—
‘period to which the election applied.’.
- (4) Section 31(3), definition *relevant 5 year period—*
omit.

5 Amendment of 31A (Election to pay royalty for prescribed mineral at variable rate)

- (1) Section 31A(1), ‘sold, disposed of, or used after 31 December 2005’—
omit.
- (2) Section 31A(2), from ‘made—’—
omit, insert—
‘made on the first royalty return lodged by the person in relation to the mineral.’.
- (3) Section 31A—
insert—
- ‘(3) This section expires on 31 December 2010.’.

6 Amendment of s 34 (Threshold exemption for particular minerals)

- (1) Section 34(1)(b), (c) and (d)—
omit, insert—

-
- (b) corundum, a gemstone or precious stone;
 - (c) iron ore;
 - (d) manganese, molybdenum or a rare earth;
 - (e) tantalum or tungsten;
 - (f) a mineral mentioned in schedule 4, part 2, section 10.’.
- (2) Section 34, ‘\$30000’—
omit, insert—
‘\$100000’.

7 Omission of pt 9, div 2, sdiv 4 (Concessions for particular minerals)

Part 9, division 2, subdivision 4—
omit.

8 Amendment of s 39 (Royalty discounts for base prescribed minerals, manganese and tantalum)

- (1) Section 39, heading, from ‘base’—
omit, insert—
‘**particular minerals**’.
- (2) Section 39(1)(b)(ii), after ‘copper,’—
insert—
‘iron ore,’.
- (3) Section 39(1)(b)(iv)—
omit, insert—
 ‘(iv) for molybdenum—at least 56%; or
 (v) for nickel—at least 70%; or
 (vi) for tungsten (WO₃)—at least 89%.’.
- (4) Section 39(3)(a)—

[s 9]

omit, insert—

‘(a) for cobalt, copper, iron ore, nickel, molybdenum and tungsten—20%.’

- (5) Section 39(4), definition *relevant mineral*, paragraphs (b) and (c)—

omit, insert—

- ‘(b) iron ore;
(c) manganese;
(d) molybdenum;
(e) tantalum;
(f) tungsten.’

9 Replacement of s 42 (Meaning of *gross value of a mineral*)

Section 42—

omit, insert—

‘42 Gross value of a mineral

- ‘(1) If a mineral is a market value mineral, the gross value of the mineral is—
- (a) for oil shale if it is processed—the amount that would reasonably be expected to be obtained if the oil processed from the oil shale was sold to a person who is not associated with the seller of the mineral; or
 - (b) for a prescribed mineral—the amount that would reasonably be expected to be obtained if the mineral was sold to a person who is not associated with the seller of the mineral, disregarding any cost relating to the processing of the mineral; or
 - (c) otherwise—the amount for which the mineral was sold.
- ‘(2) If a mineral is not a market value mineral, the gross value of the mineral is the amount decided by the Minister on written

application to the Minister by the holder of a mining lease for the mineral.

- ‘(3) The application may be made for a particular period or a particular transaction in relation to the mineral.
- ‘(4) For the purpose of deciding the application under subsection (2), the Minister must have regard to the following matters—
 - (a) the amount for which the mineral, or a comparable mineral that is a market value mineral, has been sold;
 - (b) the amount for which a product made using the mineral has been sold;
 - (c) the period for which the gross value is to apply to the mineral;
 - (d) the need for any future adjustment of the gross value to reflect changes in the market value of the mineral;
 - (e) any submissions made to the Minister by the holder in relation to its gross value;
 - (f) any other relevant matter.
- ‘(5) The Minister may, whether or not on written application of the the holder, change the gross value of the mineral if the Minister is satisfied—
 - (a) for a gross value determined under subsection (1)—the mineral is not a market value mineral; or
 - (b) for a gross value determined under subsection (2)—
 - (i) the mineral is a market value mineral; or
 - (ii) the circumstances on which the Minister decided the gross value of the mineral have significantly changed.
- ‘(6) If the Minister decides to change the gross value of a mineral, the Minister must—
 - (a) give the holder at least 30 days written notice that the Minister intends to change the gross value, unless the holder has applied for the change; and

[s 10]

- (b) decide the new gross value of the mineral under subsection (1) or as if an application had been made to the Minister under subsection (2).
- ‘(7) The Minister must give the holder written notice of the Minister’s decision about the gross value of the mineral made under subsection (2) or subsection (6)(b).
- ‘(8) If a mineral is sold and the producer of the mineral has recovered an amount in relation to the royalty payable for the mineral from the buyer, the gross value of the mineral is the sum of the amount worked out under subsection (1), (2) or (6) and the amount recovered.
- ‘(9) In this section—
market value mineral means a mineral for which a market value may be established, having regard to any amounts for which the mineral has been sold to a person who is not associated with the seller of the mineral within the previous 2 year period.’.

10 Amendment of sch 4 (Royalty payable for minerals)

- (1) Schedule 4, heading, ‘sections 31, 32 and 37’—

omit, insert—

‘sections 31 and 32’.

- (2) Schedule 4, part 2, section 1—

omit, insert—

‘1 Particular minerals

‘The royalty rate for the following minerals is the rate, for each tonne of the mineral, stated opposite the mineral—

	\$
1 Bentonite	1.80
2 Calcite.....	1.00
3 Clay shale.....	0.50
4 Clay used for fired clay products	0.50
5 Diatomite	1.50

	\$
6 Dolomite.....	1.00
7 Felspar	0.75
8 Gypsum	0.50
9 Kaolin.....	1.00
10 Lime, earth	0.50
11 Limestone.....	0.75
12 Magnesite.....	1.50
13 Marble	1.00
14 Mica	1.50
15 Perlite	1.00
16 Rock mined in block or slab form for building or monumental purposes.....	1.00
17 Salt	1.50
18 Sand, gravel and rock, other than rock mined in block or slab form for building or monumental purposes	0.50
19 Silica.....	0.90
20 Wollastonite	0.75’.

(3) Schedule 4, part 2, section 2—

omit, insert—

‘2 Bauxite

‘The royalty rate for bauxite is—

- (a) if it is sold, disposed of or used outside the State by the holder of the mining lease for the bauxite—the higher of the following—
 - (i) 10% of the value of the bauxite;
 - (ii) \$2 for each tonne of bauxite; or
- (b) if it is sold, disposed of or used within the State by the holder of the mining lease for the bauxite—
 - (i) for a holder who has sold, disposed of or used bauxite outside the State—the higher of the following—

[s 10]

(A) 75% of the amount per tonne of the rate calculated under paragraph (a)(i);

(B) \$1.50 per tonne of bauxite; or

(ii) otherwise—\$1.50 per tonne of bauxite.’.

(4) Schedule 4, part 2, section 3—

omit, insert—

‘3 Coal

‘(1) The royalty rate for coal is the higher of the following—

(a) 7% of the value of coal;

(b) the rate, rounded down to 2 decimal places, for each tonne of coal worked out using the following formula—

$$RR = 7\% + \left(\frac{(AP - 100)}{AP} \times 3\% \right)$$

where—

RR is the royalty rate.

AP is the average price per tonne of the coal sold, disposed or used in the quarterly period.

Note—

The royalty rate for coal prescribed under this section is not prescribed for the purpose or effect of funding the development or demonstration of technology which will assist in reducing the production or emission of Greenhouse Gas from the use of coal. See the *Clean Coal Technology Special Agreement Act 2007*, schedule, section 2.5.

‘(2) The royalty rate must be worked out and applied separately for coal sold, disposed of or used inside the State and coal sold, disposed of or used outside the State.’.

(5) Schedule 4, part 2, section 4, ‘2.7%’—

omit, insert—

‘2.5%’.

(6) Schedule 4, part 2, section 5A—

omit, insert—

‘5A Manganese, molybdenum, rare earths, tantalum and tungsten

‘The royalty rate for any of the following minerals is 2.7% of the value of the mineral—

- (a) manganese;
- (b) molybdenum;
- (c) rare earths;
- (d) tantalum;
- (e) tungsten.’.

(7) Schedule 4, part 2, section 7, heading, after ‘Phosphate’—
insert—

‘rock’.

(8) Schedule 4, part 2, section 9—
omit, insert—

‘9 Iron ore

‘(1) The royalty rate for iron ore is 2.7% of the value of the iron ore.

‘(2) In this section—

iron ore includes magnetite, titanomagnetite and ironstone.’.

(9) Schedule 4, part 2, section 10, ‘2%’—
omit, insert—

‘2.5%’.

11 Amendment of sch 7 (Dictionary)

Schedule 7, definitions *apportioned prescribed amount, quarterly prescribed amount, relevant prescribed amount, threshold quarter, unused part* and *yearly prescribed amount*—

omit.

[s 12]

Part 3 **Amendment of Petroleum and Gas (Production And Safety) Regulation 2004**

12 **Regulation amended in pt 3**

This part amends the *Petroleum and Gas (Production and Safety) Regulation 2004*.

13 **Amendment of s 145 (Annual rent)**

Section 145(3)—

omit, insert—

‘(2) The annual rent for an authority mentioned in subsection (1), or a pro-rata amount of the annual rent if the period to which the rent relates is less than a year, must be paid on or before each of the following days—

- (a) on the grant of the authority, if the Minister has not already required payment of the rent—the 20th business day after the authority takes effect;

Note—

For an example of when the Minister may require payment of the rent, see section 40 of the Act.

- (b) otherwise—on or before 31 August each year.

‘(3) The annual rent must be paid by cash, cheque or electronic transfer of funds.’.

14 **Amendment of s 146 (Storage rent payable by owner of stored petroleum or prescribed storage gas)**

- (1) Section 146(3)—

omit, insert—

‘(2) The rent, or a pro-rata amount of the rent if the period to which the rent relates is less than a year, must be paid—

-
- (a) for the first payment of the rent—within 20 business days after the following day—
- (i) if no notices have been lodged under section 219 of the Act for the stored petroleum or prescribed storage gas—the day the Minister decides, under section 215 of the Act, that the person is the owner of the stored petroleum or prescribed storage gas;
 - (ii) if a notice has been lodged under section 219 of the Act for the stored petroleum or prescribed storage gas—the day the person becomes the owner of the stored petroleum or prescribed storage gas; and
- (b) otherwise—on or before 31 August each year.’
- (2) Section 146(4) and (5)—
renumber as section 146(3) and (4).

15 Amendment of s 147 (Petroleum royalty)

- (1) Section 147(2)(a) and (b), ‘month in which’—
omit, insert—
‘quarterly period in which’.
- (2) Section 147(2)(a), example, ‘November’—
omit, insert—
‘January’.
- (3) Section 147(3), ‘month’—
omit, insert—
‘quarterly period’.

16 Amendment of s 148 (Working out wellhead value of petroleum)

- (1) Section 148(1), ‘month’—
omit, insert—
‘quarterly period’.

[s 17]

(2) Section 148(3), example, ‘month’—

omit, insert—

‘quarterly period’.

(3) Section 148(4), ‘month’—

omit, insert—

‘quarterly period’.

17 Amendment of s 149 (Information to be contained in royalty return)

Section 149(1)(a) and (d), ‘month’—

omit, insert—

‘quarterly period’.

18 Insertion of new ch 7, pt 3

After section 166—

insert—

**‘Part 3 Transitional provision for the
Mines and Energy Legislation
Amendment Regulation (No. 2)
2008**

‘167 Payment of annual rent for a particular period

‘(1) This section applies to annual rent for an authority that would have been payable on or before 30 August 2008 under the unamended provision.

‘(2) The proportion of the annual rent relating to the period from the day the annual rent would have been payable under the unamended provision to 31 August 2008, is payable on or before 31 August 2008 with the annual rent for the authority payable on that day under section 145, as amended by the

Mines and Energy Legislation Amendment Regulation (No. 2) 2008.

‘(3) In this section—

unamended provision means section 145(3)(b) as in force immediately before the commencement of this section.’

ENDNOTES

- 1 Made by the Governor in Council on 12 June 2008.
- 2 Notified in the gazette on 13 June 2008.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Mines and Energy.

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