



Queensland

Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2010

Subordinate Legislation 2010 No. 1

made under the

Petroleum and Gas (Production and Safety) Act 2004

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1 Short title

This regulation may be cited as the *Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2010*.

2 Regulation amended

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

3 Insertion of new ch 6, pt 2, div 4, sdiv 1 hdg

Before section 147—

insert—

‘Subdivision 1 Prescribed matters for petroleum royalty’.

4 Insertion of new ch 6, pt 2, div 4, sdiv 2 and sdiv 3 hdg

After section 148—

insert—

‘Subdivision 2 Working out components of wellhead value of petroleum in particular circumstances

‘148A Definition for sdiv 2

‘In this subdivision—

component, of the wellhead value of petroleum disposed of or produced by a petroleum producer in a quarterly period, means—

- (a) an element used to work out the amount under section 148(1)(a) that the petroleum could reasonably be expected to realise; or
- (b) an expense, or an amount contributing to an expense, under section 148(2)(a), (b), (d) or (e).

‘148B Application of sdiv 2

- ‘(1) This subdivision applies if—
- (a) the Minister or a petroleum producer reasonably believes in particular circumstances that—
 - (i) the amount under section 148(1)(a) that the producer assesses the petroleum could reasonably be expected to realise is less than the market value of the petroleum; or
 - (ii) the expenses under subsection 148(1)(b)(i) are more than the expenses that would be reasonably incurred in the circumstances; or
 - (b) a petroleum producer applies to the Minister for a decision (a *petroleum royalty decision*) about how 1 or more of the components of the wellhead value of petroleum disposed of or produced by the petroleum producer must be worked out for a particular transaction or particular period.
- ‘(2) Without limiting subsection (1)(a), the particular circumstances include the following—
- (a) the petroleum is used in a power station owned by the petroleum producer;
 - (b) the petroleum is purchased by an associated entity or related party of the petroleum producer;
 - (c) an expense was paid or payable to an associated entity or related party of the petroleum producer.
- ‘(3) In this section—
- associated entity*, of a petroleum producer, means an entity that, under the Corporations Act, is an associated entity of the producer.
- power station* means a power station under the Electricity Act.
- related party*, of a petroleum producer, means an entity that, under the Corporations Act, is a related party of the producer.

‘148C Minister’s power to decide component of wellhead value of petroleum

- ‘(1) The Minister may ask the petroleum producer—
- (a) to demonstrate that a component of the wellhead value of the petroleum is based on an arms-length transaction at market value; or
 - (b) to apply to the Minister for a petroleum royalty decision.
- ‘(2) The petroleum producer must comply with the request within—
- (a) 40 business days after the request is made; or
 - (b) if the Minister has, within the 40 business days, agreed to a longer period—the longer period.
- ‘(3) If—
- (a) the Minister makes a request under subsection (1)(a); and
 - (b) the petroleum producer complies with the request as required under subsection (2);
- the Minister may ask the petroleum producer for additional information or documents in relation to a transaction.
- ‘(4) Subsection (5) applies if—
- (a) the petroleum producer does not comply with a request made under subsection (1) or (3); or
 - (b) for a request made under subsection (1)(a), the petroleum producer—
 - (i) complies with the request; but
 - (ii) does not demonstrate to the Minister’s satisfaction that the component of the wellhead value of the petroleum is based on an arms-length transaction at market value.
- ‘(5) The Minister may make a petroleum royalty decision under section 148F for a component of the wellhead value of the petroleum as if the petroleum producer had made an application for the petroleum royalty decision.

[s 4]

‘148D Application by petroleum producer for petroleum royalty decision

- ‘(1) The petroleum producer may apply to the Minister for a petroleum royalty decision.
- ‘(2) The application must be made—
 - (a) before the petroleum is produced; or
 - (b) before, or as soon as practicable after, a material change of circumstances that may affect whether a component of the wellhead value of the petroleum is based on an arms-length transaction at market value.

‘148E Requirements for making application

‘The application for a petroleum royalty decision must—

- (a) be in writing; and
- (b) be lodged at—
 - (i) the office of the department for lodging petroleum royalty decisions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) state why the petroleum producer is seeking the petroleum royalty decision; and
- (d) include a statement about how the petroleum producer proposes a component of the wellhead value of the petroleum should be worked out for a particular transaction or particular period; and

Examples—

- a fixed value with adjustments in particular circumstances
- a formula for deciding the market value
- (e) include a statement about each of the following—
 - (i) the proposed period for which the petroleum royalty decision will apply;

- (ii) whether or not the petroleum royalty decision be reviewed;
- (iii) if the petroleum producer proposes that the petroleum royalty decision be reviewed—when the decision is to be reviewed.

‘148F Deciding application

- ‘(1) The Minister must make a petroleum royalty decision for the application.
- ‘(2) The petroleum royalty decision may state—
 - (a) a method or formula—
 - (i) for deciding the market value of the petroleum; or
 - (ii) for working out particular tolls or tariffs paid or payable by the petroleum producer; or
 - (iii) for adjusting the market value of the petroleum or the tolls or tariffs in particular circumstances; or
 - (iv) to be used for working out any other component of the wellhead value of the petroleum; and
 - (b) the period for which the petroleum royalty decision applies; and
 - (c) when the petroleum royalty decision is to be reviewed.
- ‘(3) The Minister must give the petroleum producer notice of the petroleum royalty decision and reasons for the decision.

‘148G Criteria for decision

‘In making the petroleum royalty decision, the Minister may consider the following—

- (a) the amount for which petroleum has been sold in similar circumstances;
- (b) how the value of the petroleum can be adjusted to reflect changes to the market value of the petroleum;

[s 4]

- (c) the expenses likely to be incurred by the petroleum producer in arms-length transactions at market value;
- (d) the period for which the petroleum royalty decision, or aspects of the decision, will apply;
- (e) the need for any future adjustment of the petroleum royalty decision or aspects of the decision;
- (f) any submissions made to the Minister by the petroleum producer in relation to a component of the wellhead value of the petroleum;
- (g) any other relevant matter.

‘148H Minister’s power to amend petroleum royalty decision

‘The Minister may amend the petroleum royalty decision if there has been a material change of circumstances since the making of the decision.

‘148I Amendment of petroleum royalty decision on Minister’s initiative

- ‘(1) If the Minister proposes amending the petroleum royalty decision, the Minister must—
 - (a) give the petroleum producer notice of the proposed change at least 60 business days before the first day of the next royalty return period that would apply to the proposed amended petroleum royalty decision; and
 - (b) invite the petroleum producer to make submissions in relation to the proposed amendment within 30 business days (the *submission period*) after giving the notice.
- ‘(2) In amending the petroleum royalty decision, the Minister—
 - (a) must consider any submissions made by the petroleum producer in the submission period; and
 - (b) may consider the matters stated in section 148G(a) to (e) and (g).

‘148J Application by petroleum producer to amend petroleum royalty decision

- ‘(1) The petroleum producer may apply to the Minister to amend the petroleum royalty decision.
- ‘(2) The application must be made at least 60 business days before the first day of the next royalty return period that would apply to the proposed amended petroleum royalty decision.
- ‘(3) Sections 148E to 148G apply to the application as if a reference in the provisions to the petroleum royalty decision were a reference to an amendment of the petroleum royalty decision.

‘Subdivision 3 Royalty return’.

5 Amendment of sch 12 (Dictionary)

Schedule 12—

insert—

‘component, for chapter 6, part 2, division 4, subdivision 2, see section 148A.

petroleum royalty decision see section 148B(1)(b).’.

ENDNOTES

- 1 Made by the Governor in Council on 28 January 2010.
- 2 Notified in the gazette on 29 January 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.