



Queensland

Resources Legislation Amendment Regulation (No. 1) 2011

Subordinate Legislation 2011 No. 295

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 *Resources Legislation Amendment Regulation (No. 1) 2011*.

2 Commencement

This regulation commences on 1 January 2012.

Part 2 Amendment of Mineral Resources Regulation 2003

3 Regulation amended

This part amends the *Mineral Resources Regulation 2003*.

4 Replacement of s 25 (Form of royalty returns)

Section 25—

omit, insert—

‘25 Form of royalty returns

‘A royalty return lodged under the Act must be in the approved form.’.

5 Replacement of s 30 (When royalty payable)

Section 30—

omit, insert—

[s 5]

‘30 When royalty payable—yearly return period

‘The royalty payable by a person under the Act for a return period that is 1 year is payable on the day the royalty return must be lodged for the return period.

‘30A When and how royalty payable—quarterly return period

- ‘(1) Subject to subsection (3), the royalty payable by a person under the Act for a return period that is a quarterly return period is payable as follows—
- (a) instalment 1 is payable on or before the last business day of the second month of the return period;
 - (b) instalment 2 is payable on or before the last business day of the third month of the return period;
 - (c) instalment 3 is payable on the day a royalty return must be lodged for the return period.
- ‘(2) A person must lodge an approved form for a payment under subsection (1) when the payment is made.
- ‘(3) If the Minister considers it appropriate to do so, the Minister may by written notice (a *quarterly payment notice*) allow a person to pay the royalty payable by the person under the Act for a quarterly return period on the day the royalty return must be lodged for the return period.
- ‘(4) A quarterly payment notice given to a person must state the period for which the notice applies.
- ‘(5) If the Minister considers it appropriate to do so, the Minister may, by written notice, withdraw a quarterly payment notice.
- ‘(6) A withdrawal under subsection (5) takes effect from the start of the next return period after the return period in which the notice of the withdrawal is given ends.
- ‘(7) In this section—
instalment 1, for a return period, means—

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- (a) the amount payable by the person for the first month of the return period worked out under section 30B(2); or
 - (b) if an election under section 30C(3) applies for the first month of the return period—the amount payable by the person for the first month of the return period worked out under section 30C(5).

instalment 2, for a return period, means—

- (a) the amount payable by the person for the second month of the return period worked out under section 30B(3); or
- (b) if an election under section 30C(3) applies for the second month of the return period—the amount payable by the person for the second month of the return period worked out under section 30C(6).

instalment 3, for a return period, means—

- (a) if the sum of instalment 1 and instalment 2 for the return period is less than the royalty payable by the person under the Act for the return period—the amount that is the total amount of royalty payable by the person under the Act for the return period less that sum; or
- (b) otherwise—zero.

Note—

Section 45 provides for a refund if the amount of royalty paid for a return period is more than the amount of royalty payable assessed by the chief executive under section 44.

quarterly return period means a return period that is a quarter.

‘30B Working out monthly payments for quarterly return period generally

- ‘(1) This section prescribes, for section 30A(1), the amounts payable by a person for each month of a return period.

Note—

Section 30C allows a person to make an election to change the amount payable for the first or second month of a return period if the person

[s 5]

reasonably believes the royalty payable by the person under the Act for the return period will be less than the royalty payable by the person under the Act for the previous return period.

- ‘(2) The amount payable by the person for the first month of the return period is an amount that is a third of the total amount of the royalty payable by the person under the Act for the previous return period.
- ‘(3) The amount payable by the person for the second month of the return period is an amount that is a third of the total amount of the royalty payable by the person under the Act for the previous return period.
- ‘(4) For subsections (2) and (3), the royalty payable by the person under the Act for the previous return period is the royalty payable by the person under the Act for the previous return period—
 - (a) taking into account any determination under section 330 of the Act, and any reassessment under section 331 of the Act, for the royalty made before the earlier of the following happens—
 - (i) the amount for the first month of the return period is paid;
 - (ii) the amount for the first month of the return period becomes payable; and
 - (b) disregarding any determination under section 330 of the Act, and any reassessment under section 331 of the Act, for the royalty made when or after the earlier of the following happens—
 - (i) the amount for the first month of the return period is paid;
 - (ii) the amount for the first month of the return period becomes payable.

Example—

The royalty paid for the previous return period was \$90000. A reassessment for the previous return period was made by the Minister under section 331 of the Act to increase the royalty payable for the previous return period to \$120000. The reassessment was made before

the amount payable for the first month of the return period is paid or becomes payable (whichever is the earlier). Accordingly, the amount payable under this section for the first month and second month of the return period is \$40000 (being a third of \$120000).

- ‘(5) If the person has not lodged a royalty return for the previous return period as required under the Act—
- (a) the Minister—
 - (i) may estimate the amount of royalty payable by the person under the Act for the previous return period for working out the amounts payable under subsections (2) and (3); and
 - (ii) must give the person a written notice stating the estimated amount; and
 - (b) for subsections (2) and (3), the royalty payable by the person under the Act for the previous return period is the estimated amount.
- ‘(6) If the previous return period was not a quarter—
- (a) the Minister—
 - (i) may adjust the amount of royalty payable by the person under the Act for the previous return period to estimate an amount representative of the royalty that would have been payable if the previous return period were a quarter; and
 - (ii) must give the person a written notice stating the estimated amount; and
 - (b) for subsections (2) and (3), the royalty payable by the person under the Act for the previous return period is the estimated amount.
- ‘(7) In estimating an amount for subsection (5) or (6), the Minister may have regard to—
- (a) any other royalty returns lodged by the person; and
 - (b) the size of the operation for which the royalty is payable; and
 - (c) any other relevant matter.

[s 5]

‘(8) In this section—

previous return period, for a return period, means the return period immediately preceding that return period.

‘30C Election to change monthly payments for quarterly return period

‘(1) This section applies if—

- (a) at the relevant time, a person reasonably believes the amount of royalty payable by the person under the Act for a return period that is a quarterly return period (the *current return period*) will be less than the royalty payable by the person under the Act for the return period ending immediately before the start of the current return period (the *previous return period*); and
- (b) the Minister has not given the person a written notice stating that the amounts payable by the person for the return period must be worked out under section 30B.

‘(2) For subsection (1), the royalty payable by the person under the Act for the previous return period is the amount that, under section 30B(4), (5)(b) or (6)(b), is the royalty payable by the person under the Act for the previous return period for section 30B(2) and (3).

‘(3) The person may elect to change the amount payable for the first month or the second month of the current return period.

‘(4) The election must—

- (a) be lodged in the approved form; and
- (b) state the amount of royalty the person reasonably believes will be payable by the person under the Act for the current return period; and
- (c) be lodged on or before the following day unless the Minister has, by giving written notice to the person, approved another day for making the election—

-
- (i) for an election for the first month of the current return period—the last business day of the second month of the return period;
 - (ii) for an election for the second month of the current return period—the last business day of the third month of the return period.
- ‘(5) If the person makes an election under subsection (3) for the first month of the current return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election.
- ‘(6) If the person makes an election under subsection (3) for the second month of the current return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election.
- ‘(7) The Minister may give a notice mentioned in subsection (1)(b) if—
- (a) the person has made an election under this section for a month in a return period; and
 - (b) the Minister considers that the person did not have a reasonable basis for forming the belief mentioned in subsection (1)(a) for the election.
- ‘(8) In this section—
- quarterly return period* means a return period that is a quarter.
- relevant time*, for an election for the first month or the second month of a return period, means when the amount payable for the month becomes payable under section 30A.’.

6 Amendment of s 45 (Refund or credit if royalty paid higher than amount assessed)

Section 45(1)(b), ‘with the return’—

omit, insert—

‘for the return period’.

[s 7]

7 Amendment of s 46 (Notice requirement if royalty paid lower than amount assessed)

Section 46(1)(b) and (3)(a), ‘with the return’—

omit, insert—

‘for the return period’.

8 Insertion of new pt 9, div 7

After section 47D—

insert—

‘Division 7 Other

‘47E Special provision for transition to calendar quarterly return period

- ‘(1) This section applies if, under section 27(1)(b), the return period applying to a person is a quarter other than a calendar quarter.
- ‘(2) The Minister may by written notice change the return period applying to the person to a calendar quarter.
- ‘(3) A notice given under subsection (2) must state—
 - (a) the day the change will take effect (the *start day*), which must be the start of a calendar quarter occurring after the return period in which the notice is given ends; and
 - (b) the period for which a royalty return must be lodged under subsection (4).
- ‘(4) For transitioning the return period applying to the person to a calendar quarter, the person must lodge a royalty return for the period (the *transitioning return period*) that—
 - (a) starts on the first day of the return period applying to the person immediately before the start day; and
 - (b) ends on the day immediately before the start day.

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- ‘(5) The person must lodge a royalty return for the transitioning return period on or before the last business day of the month after the day the period ends.
- ‘(6) The royalty payable by the person for the transitioning return period is payable on the day the royalty return must be lodged for the period under subsection (5).’.

9 Insertion of new pt 13, div 5

After section 90—

insert—

**‘Division 5 Transitional provision for
Resources Legislation Amendment
Regulation (No. 1) 2011**

‘91 When royalty payable for particular quarterly return periods

- ‘(1) This section applies for a return period that—
- (a) is a quarter; and
 - (b) started before the commencement of this section; and
 - (c) has not ended at the commencement.
- ‘(2) Section 30 as in force before the commencement continues to apply in relation to the return period.’.

10 Amendment of sch 7 (Dictionary)

Schedule 7, definition *hedge settlement rate*—

omit, insert—

‘*hedge settlement rate*, for a day, means the WM/Reuters Australia Fix 10.00a.m. rate on the day.’.

-
- ‘(3) Subject to subsection (5), the petroleum royalty payable by a petroleum producer for a royalty return period is payable as follows—
- (a) instalment 1 is payable on or before the last business day of the second month of the royalty return period;
 - (b) instalment 2 is payable on or before the last business day of the third month of the royalty return period;
 - (c) instalment 3 is payable on or before the last business day of the month immediately after the royalty return period ends.
- ‘(4) A person must lodge an approved form for a payment under subsection (3) when the payment is made.
- ‘(5) If the Minister considers it appropriate to do so, the Minister may, by notice (a *payment notice*), allow a petroleum producer to pay the petroleum royalty payable by the producer for a royalty return period on or before the last business day of the month immediately after the royalty return period ends.
- ‘(6) A payment notice given to a petroleum producer must state the period for which the notice applies.
- ‘(7) If the Minister considers it appropriate to do so, the Minister may, by notice, withdraw a payment notice.
- ‘(8) A withdrawal under subsection (7) takes effect from the start of the next royalty return period after the royalty return period in which the notice of the withdrawal is given ends.
- ‘(9) In this section—
- instalment 1*, for a royalty return period, means—
- (a) the amount payable by the producer for the first month of the royalty return period worked out under section 147A(2); or
 - (b) if an election under section 147B(3) applies for the first month of the royalty return period—the amount payable by the producer for the first month of the royalty return period worked out under section 147B(5).
- instalment 2*, for a royalty return period, means—

[s 12]

- (a) the amount payable by the producer for the second month of the royalty return period worked out under section 147A(3); or
- (b) if an election under section 147B(3) applies for the second month of the royalty return period—the amount payable by the producer for the second month of the royalty return period worked out under section 147B(6).

instalment 3, for a royalty return period, means—

- (a) if the sum of instalment 1 and instalment 2 for the royalty return period is less than the petroleum royalty payable by the petroleum producer for the royalty return period—the amount that is the total amount of the petroleum royalty payable by the petroleum producer for the royalty return period less that sum; or
- (b) otherwise—zero.

Note—

Section 600 of the Act provides for a refund if the amount of petroleum royalty paid by a petroleum producer for a royalty return period is more than the amount of petroleum royalty payable by the producer for the royalty return period.

‘147A Working out monthly payments for petroleum royalty generally

- ‘(1) This section prescribes, for section 147(3), the amounts payable by a petroleum producer for each month of a royalty return period.

Note—

Section 147B allows a petroleum producer to make an election to change the amount payable for the first or second month of a royalty return period if the producer reasonably believes the petroleum royalty payable by the producer for the royalty return period will be less than the petroleum royalty payable by the producer for the previous royalty return period.

- ‘(2) The amount payable by the petroleum producer for the first month of the royalty return period is an amount that is a third

of the total amount of the petroleum royalty payable by the producer for the previous royalty return period.

- ‘(3) The amount payable by the petroleum producer for the second month of the royalty return period is an amount that is a third of the total amount of the petroleum royalty payable by the producer for the previous royalty return period.
- ‘(4) For subsections (2) and (3), the petroleum royalty payable by the petroleum producer for the previous royalty return period is the petroleum royalty payable by the producer for the previous royalty return period disregarding any reconciliation made under section 597 of the Act, and any inaccuracy disclosed under section 598 of the Act, for the royalty.
- ‘(5) If the petroleum producer has not lodged a royalty return for the previous royalty return period as required under the Act—
 - (a) the Minister—
 - (i) may estimate the amount of petroleum royalty payable by the producer for the previous royalty return period for working out the amounts payable under subsections (2) and (3); and
 - (ii) must give the producer a notice stating the estimated amount; and
 - (b) for subsections (2) and (3), the petroleum royalty payable by the producer for the previous royalty return is the estimated amount.
- ‘(6) In estimating an amount for subsection (5), the Minister may have regard to—
 - (a) any other royalty returns lodged by the petroleum producer; and
 - (b) the size of the operation for which the petroleum royalty is payable; and
 - (c) any other relevant matter.
- ‘(7) In this section—

[s 12]

previous royalty return period, for a royalty return period, means the royalty return period immediately preceding that royalty return period.

‘147B Election to change monthly payments

- ‘(1) This section applies if—
- (a) at the relevant time, a petroleum producer reasonably believes the amount of petroleum royalty payable by the producer for a royalty return period (the *current royalty return period*) will be less than the petroleum royalty payable by the producer for the royalty return period ending immediately before the start of the current royalty return period (the *previous royalty return period*); and
 - (b) the Minister has not given the producer a notice stating that the amounts payable by the producer for the royalty return period must be worked out under section 147A.
- ‘(2) For subsection (1), the petroleum royalty payable by the petroleum producer for the previous royalty return period is the amount that, under section 147A(4) or (5)(b), is the petroleum royalty payable by the producer for the previous royalty return period for section 147A(2) and (3).
- ‘(3) The petroleum producer may elect to change the amount payable for the first month or the second month of the current royalty return period.
- ‘(4) The election must—
- (a) be lodged in the approved form; and
 - (b) state the amount of petroleum royalty the petroleum producer reasonably believes will be payable by the producer for the current royalty return period; and
 - (c) be lodged on or before the following day unless the Minister has, by giving notice to the producer, approved another day for making the election—

-
- (i) for an election for the first month of the current royalty return period—the last business day of the second month of the royalty return period;
 - (ii) for an election for the second month of the current royalty return period—the last business day of the third month of the royalty return period.
- ‘(5) If the petroleum producer makes an election under subsection (3) for the first month of the current royalty return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election.
- ‘(6) If the petroleum producer makes an election under subsection (3) for the second month of the current royalty return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election.
- ‘(7) The Minister may give a notice mentioned in subsection (1)(b) if—
- (a) the petroleum producer has made an election under this section for a month in a royalty return period; and
 - (b) the Minister considers that the producer did not have a reasonable basis for forming the belief mentioned in subsection (1)(a) for the election.
- ‘(8) In this section—
- relevant time*, for an election for the first month or the second month of a royalty return period, means when the amount payable for the month becomes payable under section 147.’.

‘147C Rate of petroleum royalty payable

‘Petroleum royalty payable by a petroleum producer is payable at the rate of 10% of the wellhead value of the petroleum disposed of or, if section 147(1)(b) applies, produced by the petroleum producer during a royalty return period.’.

[s 13]

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

Section 148(1), ‘147(2)(b)’—

omit, insert—

‘147(1)(b)’.

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

Section 149(1)(a), ‘147(2)(b)’—

omit, insert—

‘147(1)(b)’.

15 Amendment of sch 12 (Dictionary)

Schedule 12, definition *disposes of*, ‘147(4)’—

omit, insert—

‘147(2)’.

ENDNOTES

- 1 Made by the Governor in Council on 8 December 2011.
- 2 Notified in the gazette on 9 December 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Treasury Department.

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