Progressive Coal Royalties Protection (Keep Them in the Bank) Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Progressive Coal Royalties Protection (Keep Them in the Bank) Bill 2024 (the Bill).

Policy objectives and the reasons for them

The Bill amends the *Mineral Resources Act 1989* (Mineral Resources Act) to introduce a coal royalty rate floor, by providing that a regulation may not prescribe coal royalty rates that are lower than those prescribed from time to time, to ensure Parliamentary consideration is required for changes that would decrease the coal royalty rates.

The effect of these changes will be to ensure that progressive coal royalties cannot be removed without prior positive endorsement of the Legislative Assembly.

The need for this Bill has emerged as the result of statements made by the Leader of the Opposition and other Members of Parliament that suggest progressive coal royalties would be modified or removed at a future date should they form Government. Without the change proposed in this Bill, modification or removal of progressive coal royalties could occur without adequate public or parliamentary scrutiny.

In June 2022, as part of the state Budget, the Government introduced progressive coal royalty tiers. The new progressive coal royalty tiers – the first change after a ten year royalty rate "freeze" - were designed to ensure Queenslanders receive a fair return on the use of the State's valuable and limited natural resources during periods of high coal prices.

As coal royalty rates are prescribed under subordinate legislation, these tiers could have been introduced by way of a regulation made by the Governor in Council. However, for greater transparency, progressive coal royalty tiers were introduced through the mechanism of the Revenue Legislation Amendment Bill 2022. No votes were cast against that Bill by any member or political party represented in the Parliament.

However, since the commencement of progressive coal royalty tiers, some Members have made statements about progressive coal royalty tiers that indicate these tiers no longer have bipartisan support and could be subject to change by a future government. On the present law, this could occur by subordinate legislation alone.

Most recently, on 20 March 2024, the Leader of the Opposition gave an address to the Queensland Resources Council's Resources Roundup event. At that event, when asked, the

Leader of the Opposition declined to say that he would retain progressive coal royalties. Instead, the Leader of the Opposition told coal companies present at the function that he would provide a royalties policy that they "will be able to take to the bank."

This follows a number of other statements made by the Leader of the Opposition and other shadow ministers indicating their interest and desire to consider reducing or modifying the royalty regime.

While it is appropriate for any member or political party to consider and propose changes to royalties, on the current law, significant revenue losses could be imposed on Queensland by a future Government without necessarily a majority of the Legislative Assembly being in favour of such a change. In these circumstances, although the Legislative Assembly would have the capacity to disallow such a change under the Statutory Instruments Act 1992, a change followed by disallowance would promote uncertainty in the revenue base and in the resources industry.

Achievement of policy objectives

The Mineral Resources Act imposes the requirement to pay royalties in respect of minerals mined in Queensland.

Section 417 of the Mineral Resources Act gives the Governor in Council power to make regulations under the Act. Section 417(2)(l) provides that a regulation may be made about the amount or rates or methods of calculation of royalty to be paid under the Act.

Section 321(1) of the Mineral Resources Act provides that regulations made pursuant to section 417 may prescribe the royalties payable in respect of minerals mined from land to the Crown or other person who had the property in the mineral.

Royalty rates are prescribed under the *Mineral Resources Regulation 2013* (Mineral Resources Regulation). In relation to coal, the Mineral Resources Regulation prescribes a progressive six-tier royalty rate structure. The applicable royalty rate is determined based on the average price per tonne of coal sold, disposed of, or used in the return period.

The Mineral Resources Act is amended to introduce a coal royalty rate floor, to ensure that there is appropriate visibility and Parliamentary consideration of any proposed decrease to coal royalty rates. Specifically, the Bill amends the Mineral Resources Act to provide that a regulation may not prescribe a coal royalty rate that is lower than the rate that is prescribed from time to time. The amendments commence on assent.

Current processes will continue to apply for any increase to coal royalty rates as well as for coal royalty rates to be changed by way of an amending Bill.

Alternative ways of achieving policy objectives

The policy objectives of the Bill can only be achieved by legislative amendment.

Estimated cost for government implementation

Implementation costs are expected to be met from within existing budget allocations.

Consistency with fundamental legislative principles

The Bill is consistent with fundamental legislative principles.

Consultation

Community consultation was not undertaken as the amendments are of a machinery nature and are necessary to support royalty administration.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland and are not otherwise uniform with or complementary to legislation of the Commonwealth or another state or territory.

Notes on provisions

Clause 1 provides that the Bill, when enacted, may be cited as the *Progressive Coal Royalties Protection (Keep Them in the Bank) Act 2024*.

Clause 2 provides that the Bill amends the *Mineral Resources Act 1989.*

Clause 3 inserts new section 321AA into the *Mineral Resources Act 1989*. New section 321AA prevents the royalty rate for coal being lowered by way of a regulation, either by way of a new regulation, amendment of an existing regulation, or repeal of an existing regulation. Therefore, the royalty rate for coal can only be lowered by way of a Bill.