



Mineral Resources Act 1989

Mineral Resources Regulation 2013

Current as at 1 September 2013

Information about this reprint

This reprint shows the legislation current as at the date on the cover and is authorised by the Parliamentary Counsel.

A new reprint of the legislation will be prepared by the Office of the Queensland Parliamentary Counsel when any change to the legislation takes effect. This change may be because a provision of the original legislation, or an amendment to it, commences or because a particular provision of the legislation expires or is repealed.

When a new reprint is prepared, this reprint will become a historical reprint. Also, if it is necessary to replace this reprint before a new reprint is prepared, for example, to include amendments with a retrospective commencement, an appropriate note would be included on the cover of the replacement reprint and on the copy of this reprint at www.legislation.qld.gov.au.

The endnotes to this reprint contain detailed information about the legislation and reprint. For example—

- The table of reprints endnote lists any previous reprints and, for this reprint, gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it.
- The list of legislation endnote gives historical information about the original legislation and the legislation which amended it. It also gives details of uncommenced amendments to this legislation. For information about possible amendments to the legislation by Bills introduced in Parliament, see the Queensland Legislation Current Annotations at www.legislation.qld.gov.au/Leg_Info/information.htm.
- The list of annotations endnote gives historical information at section level.

All Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints are not continued.



Queensland

Mineral Resources Regulation 2013

Contents

		Page
Chapter 1	Preliminary	
1	Short title	7
2	Commencement	7
3	Definitions	7
Chapter 2	Mining tenements	
Part 1	Prospecting permits	
4	Conditions—Act, s 25	7
5	Minimum security for district prospecting permit	8
Part 2	Mining claims	
6	Amendment of application after survey of contiguous land	8
7	Prescribed areas for particular land—Act, s 53	9
8	Conditions—Act, s 81	9
Part 3	Exploration permits and mineral development licences	
Division 1	Exploration permits	
9	Prescribed areas—Act, ss 127 and 133	11
10	Numbering of application—Act, s 134	12
11	Conditions—Act, s 141	12
Division 2	Mineral development licences	
12	Conditions—Act, s 194	13
Division 3	Prescribed information for reports	
13	Annual reports—Act, ss 141 and 194	13
14	Expenditure statement for annual report	14
15	First annual reports—Act, ss 141 and 194	17
16	Partial surrender reports and partial relinquishment reports—Act, ss 141 and 194	17
17	Final reports—Act, ss 141 and 194	20
18	Giving reports—Act, ss 141 and 194	21

Contents

Part 4	Mining leases	
Division 1	Mining lease applications	
19	Amendment of application after survey of contiguous land	22
20	Person may obtain copy of mining lease application	23
Division 2	Required knowledge	
21	Required level of knowledge about resources or reserves of petroleum	23
Division 3	Conditions applying to mining leases generally	
22	Conditions—Act, s 276	25
Division 4	Conditions applying to particular coal mining leases	
23	Definitions for div 4	25
24	Application of div 4	26
25	Condition if mining lease holder is mine operator	26
26	Condition if mining lease holder not mine operator	28
27	Requirements for plan	29
28	Chief inspector of coal mines may decide particular disputes . . .	31
29	Mining lease holder must stop mining operations in particular circumstances	31
Part 5	Additional conditions for mining tenements relating to particular restricted areas	
30	Application of pt 5	32
31	Conditions about access shafts	33
Chapter 3	Royalties	
Part 1	Preliminary	
32	Definitions for ch 3	33
Part 2	Royalty returns	
33	Application of pt 2	34
34	Form of royalty returns	34
35	Period to which a royalty return must relate	34
36	When royalty return must be lodged	35
37	Minister may require royalty return to be lodged on particular day	36
38	No royalty return required in particular circumstances	36
Part 3	Royalty payable for minerals	
Division 1	Royalty payable	
39	When royalty payable—yearly return period	37
40	When and how royalty payable—quarterly return period	37
41	Quarterly payment notice	39

42	Working out monthly payments for quarterly return period generally	39
43	Working out monthly payments for quarterly return period in particular circumstances	40
44	Election to change monthly payments for quarterly return period	41
45	Minister may give notice requiring royalty payable to be worked out under s 42	43
46	Royalty payable	43
47	Particular royalties payable on adjustment basis	43
48	Royalty on stocks of mineral for mining operation that has ended	45
Division 2	Exemptions	
49	Exemption for coal seam gas	46
50	Threshold exemption for relevant minerals.	46
Division 3	Discounts for particular minerals	
51	Particular minerals processed in Queensland	48
Part 4	Working out values of minerals	
52	Application of pt 4.	49
53	Value of coal seam gas	49
54	Value of minerals other than coal seam gas.	49
Part 5	Working out gross values of minerals other than coal seam gas	
Division 1	Preliminary	
55	Application of pt 5.	51
56	Definitions for pt 5.	51
Division 2	Gross value of market value minerals	
57	Meaning of market value mineral	53
58	Gross value of market value minerals	54
Division 3	Gross value of minerals other than market value minerals	
Subdivision 1	Gross value royalty decisions	
59	Gross value of minerals other than market value minerals.	56
60	Application for gross value royalty decision	56
61	Gross value royalty decision on Minister's own initiative	57
62	Considerations for gross value royalty decisions	58
63	Gross value royalty decisions.	59
Subdivision 2	Incorrect gross value royalty decisions	
64	Obligation to notify incorrect gross value royalty decision	60
65	Minister may amend gross value royalty decision	60

Contents

66	Notice of amendment	61
Subdivision 3	Review of gross value royalty decisions	
67	Review application	62
68	Review decision	63
69	Notice of review decision	63
Subdivision 4	Reassessment if gross value royalty decision amended	
70	Application of sdiv 4	64
71	Minister must reassess royalty payable	64
72	Notice requirement if royalty paid lower than reassessed amount	64
73	Refund on reassessment	65
Part 6	Assessment of royalty payable	
74	Assessment	66
75	Refund on assessment.	66
76	Notice requirement if royalty paid lower than amount assessed .	66
Part 7	Civil penalty	
77	Imposition—Act, s 321A	68
78	Notice	69
79	Civil penalty not payable if proceeding for offence started	69
Part 8	Unpaid royalty interest	
80	Rate—Act, s 332	70
81	Working out unpaid royalty interest on royalty payable for quarterly return period—Act, s 332	70
Part 9	Royalty estimates	
82	Application of pt 9.	71
83	Royalty estimate notices.	72
84	Form of and information to be included in royalty estimate	72
85	Minister may request information to support royalty estimate . . .	73
Chapter 4	Miscellaneous	
Part 1	Administration and judicial functions	
86	Amount held by tribunal for compensation trust decision—Act, s 712	73
Part 2	Registers	
87	Registration of transmission by death	74
88	Priority of registration	74
Part 3	Requirements for mortgagees exercising power of sale	
89	Definition for pt 3	75

90	Exercise of power of sale by mortgagee	75
91	Additional information required from mortgagee exercising power of sale	76
Part 4	Additional information and lodgement requirements	
92	Application for duplicate authorising document	77
93	Plan of survey must be lodged	77
94	Prescribed way for making applications etc.—Act, s 386O	77
95	Lodgement of royalty documents	78
Part 5	Small scale mining code	
96	Small scale mining code—Act, s 391C	78
Part 6	Mining tenements	
97	Particular applications can not be accepted.	79
98	Rental payable	80
Part 7	Other miscellaneous provisions	
99	Time of lodgement to be noted.	81
100	Prescribed hours of business.	81
101	Fees	81
Part 8	Repeal	
102	<i>Repeal</i>	82
Part 9	Transitional provisions for Mineral Resources Regulation 2013	
103	Definitions for pt 9.	82
104	Period to which royalty return must relate	82
105	Minerals sold, disposed of or used before commencement.	83
106	Existing application for gross value royalty decision.	83
107	Existing gross value royalty decisions	84
108	Minister may do particular things	84
109	Threshold exemption for relevant minerals.	84
110	References to provisions of repealed regulation	85
Schedule 1	Conditions	86
Schedule 2	Prescribed area for mining claim land	88
Schedule 3	Royalty payable for minerals	90
Part 1	Royalty rates for prescribed minerals	
1	Definitions for pt 1.	90
2	Royalty rate for prescribed mineral.	91

Contents

Part 2	Royalty rates for minerals other than prescribed minerals	
3	Particular minerals	92
4	Bauxite	93
5	Coal	93
6	Corundum, gemstones and other precious stones.	94
7	Coal seam gas	95
8	Manganese, molybdenum, rare earths, tantalum and tungsten	95
9	Mineral sands	95
10	Phosphate rock	95
11	Processed oil shale	97
12	Iron ore	98
13	Other minerals	98
Schedule 4	Rental payable	99
Schedule 5	Fees	100
Schedule 6	Dictionary	108
Endnotes		
1	Index to endnotes	113
2	Date to which amendments incorporated.	113
3	Key	113
4	Table of reprints	114
5	List of legislation.	114
6	List of annotations	114

Mineral Resources Regulation 2013

[reprinted as in force on 1 September 2013]

Chapter 1 Preliminary

1 Short title

This regulation may be cited as the *Mineral Resources Regulation 2013*.

2 Commencement

This regulation commences on 1 September 2013.

3 Definitions

The dictionary in schedule 6 defines particular words used in this regulation.

Chapter 2 Mining tenements

Part 1 Prospecting permits

4 Conditions—Act, s 25

For section 25(2) of the Act the prescribed conditions to which a prospecting permit is subject are stated in—

- (a) schedule 1, items 1 to 3; and

[s 5]

- (b) if the permit applies to occupied land—schedule 1, items 4 to 6.

Note—

See also part 5.

5 Minimum security for district prospecting permit

- (1) This section applies only to a district prospecting permit.
- (2) For section 26(2) of the Act, the amount prescribed for the permit is \$1000.

Part 2 Mining claims

6 Amendment of application after survey of contiguous land

- (1) This section applies if—
 - (a) an application for a mining claim applies to land that is contiguous to affected land; and
 - (b) at the time the application was made, the affected land had not been surveyed; and
 - (c) the affected land was later surveyed; and
 - (d) the chief executive has given the applicant a notice (the *notice*) stating—
 - (i) the survey of the affected land has been completed; and
 - (ii) all survey marks defining the boundary of the affected land have been placed.
- (2) The applicant may do the following so that the land to which the application for the mining claim relates is still contiguous to the affected land—

- (a) amend the description of the land stated on the application;
 - (b) adjust the marking out of the land to which the application relates.
- (3) However, the amendment and adjustment mentioned in subsection (2) must—
- (a) be made within 14 days after the applicant is given the notice or, if the chief executive has approved a longer period, the longer period; and
 - (b) not cause the land to which the application relates to include any land that is not land to which the applicant's prospecting permit applies.
- (4) Also, this section does not authorise or entitle the applicant to have the affected land surveyed.

7 Prescribed areas for particular land—Act, s 53

For section 53(3)(b) of the Act, the area prescribed for particular land in a mining district mentioned in schedule 2 is the area stated, in schedule 2, for the land.

8 Conditions—Act, s 81

- (1) For section 81(1)(o) of the Act, the prescribed conditions to which a mining claim is subject are stated in—
- (a) subsection (2) and schedule 1, items 1 to 3; and
 - (b) if the claim applies to occupied land—schedule 1, item 4.

Note—

See also part 5.

- (2) A holder of a mining claim must not use prohibited machinery in the area of the claim.
- (3) However, subsection (2) does not apply to—

[s 8]

- (a) using machinery to—
 - (i) transport mineral bearing ore or wash; or
 - (ii) transport equipment, materials, or water, used for mining operations; or
 - (iii) build storage facilities for water used for mining operations; or
 - (iv) rehabilitate the surface area of the land; or
- (b) using an eductor dredge in the Mareeba mining district, if the eductor dredge—
 - (i) has an inlet nozzle diameter of no more than 200mm; and
 - (ii) is being used while water is flowing in, or in streams leading into, the Palmer River or Mitchell River; or
- (c) using a vehicle-mounted drill in restricted area 1, 25 or 77 if the drill has a diameter no more than—
 - (i) if the drill is used for exploration drilling—25cm; or
 - (ii) if the drill is used for drilling access shafts—1m.
- (4) Also, subsection (2) does not apply to using prohibited machinery in the area of a prescribed mining claim, other than in any part of the area of a prescribed mining claim that is within the boundaries shown on any of the following plans—
 - (a) MP34341;
 - (b) MP34342;
 - (c) MP34343;
 - (d) MP36464;
 - (e) MP40825;
 - (f) MP30692;
 - (g) MP31027;

[s 10]

- (a) for an exploration permit for the exploration of coal—300 sub-blocks; and
- (b) for any other exploration permit—100 sub-blocks.

10 Numbering of application—Act, s 134

- (1) This section prescribes, for section 134 of the Act, the way an application for an exploration permit must be numbered.
- (2) The application must be given an identification number that includes—
 - (a) a sequence of letters to identify the type of exploration permit to which the application relates; and
 - (b) a consecutive number, following on from the last number given for an application for an exploration permit of the same type.
- (3) For subsection (2)(a), the sequence of letters used to identify the type of exploration permit must be decided by using a system approved by the chief executive.

11 Conditions—Act, s 141

For section 141(1)(i) of the Act, the prescribed conditions to which an exploration permit is subject are stated in—

- (a) schedule 1, items 1 to 3; and
- (b) if the permit applies to occupied land—schedule 1, items 4 and 5.

Note—

See also part 5.

Division 2 Mineral development licences

12 Conditions—Act, s 194

For section 194(1)(i) of the Act, the prescribed conditions to which a mineral development licence is subject are stated in—

- (a) schedule 1, items 1 to 3; and
- (b) if the licence applies to occupied land—schedule 1, items 4 to 6.

Note—

See also part 5.

Division 3 Prescribed information for reports

13 Annual reports—Act, ss 141 and 194

- (1) A report (the *annual report*) for an exploration permit mentioned in section 141(1)(e)(i) of the Act, or for a mineral development licence mentioned in section 194(1)(e)(i) of the Act, must contain the following—
 - (a) a full technical summary of the authorised activities for the permit or licence carried out during the reporting period for the permit or licence, including—
 - (i) assay results; and
 - (ii) geological, geophysical, geochemical, drilling or remote sensing data, including maps showing the geophysical and geochemical anomalies and prospects or mineralisation in the area; and
 - (iii) any three-dimensional models generated as part of exploration in the area;
 - (b) a statement detailing whether the program of activities for the permit or licence was complied with during the

[s 14]

- reporting period, including details of, and reasons for, any failure to comply with the program;
 - (c) a statement of the authorised activities proposed to be carried out under the permit or licence for the next reporting period for the permit or licence;
 - (d) a statement and a map with cross-sections of any resources and reserves identified;
 - (e) a description of any significant mineralisation identified and related geological or structural features;
 - (f) an expenditure statement complying with section 14.
- (2) The expenditure statement must be—
- (a) in a document that is separate from the remainder of the annual report; and
 - (b) given to the Minister together with the remainder of the annual report.

14 Expenditure statement for annual report

- (1) An expenditure statement for an annual report for an exploration permit or a mineral development licence must itemise the expenditure incurred for each authorised activity carried out under the permit or licence during the reporting period for the permit or licence.
- (2) The expenditure statement must contain a separate itemisation of expenditure for each of the following, where applicable—
 - (a) drilling and completion activities;
 - (b) trenching, costeaning or pitting;
 - (c) geophysical and geochemical surveys;
 - (d) technical evaluation and analysis;
 - (e) data management or data interpretation;
 - (f) operational and administrative expenses, limited to 10% of the total expenditure;

- (g) complying with native title conditions;
 - (h) allowable costs under a native title agreement or native title conditions.
- (3) The expenditure statement for an annual report for a mineral development licence must also contain a separate itemisation of the expenditure for each of the following, where applicable—
- (a) metallurgical testing;
 - (b) mining feasibility, environmental or marketing studies;
 - (c) engineering and design studies.
- (4) However, the expenditure statement for an annual report for an exploration permit or a mineral development licence must not include details of expenditure for any of the following—
- (a) background land tenure searches and assessments;
 - (b) rent, fees and security paid under the Act for the exploration permit or the mineral development licence;
 - (c) obtaining legal advice or legal representation, including disbursements and interest on amounts payable for legal services;
 - (d) compensation to—
 - (i) the State; or
 - (ii) owners under schedule 1, section 13 of the Act;
 - (e) consultation and negotiation with native title parties, other than allowable costs under a native title agreement or native title conditions;
 - (f) capital assets.
- (5) In this section—
- allowable costs***, under a native title agreement or native title conditions, is expenditure relating to—
- (a) giving notice to a native title party under the Commonwealth Native Title Act, section 29; or

[s 14]

- (b) conducting field inspections; or
- (c) monitoring the initial ceremonial breaking or disturbance of soil; or
- (d) making an administrative payment, compensation payment, inspection report payment, exploration liaison committee payment or access fee, stated in the native title agreement or native title conditions; or
- (e) giving training about Aboriginal cultural awareness to the holder of a relevant exploration permit or mineral development licence or the holder's employees.

native title agreement means—

- (a) a registered indigenous land use agreement under the Commonwealth Native Title Act; or
- (b) any of the following under the Commonwealth Native Title Act, part 2, division 3, subdivision P—
 - (i) an agreement mentioned in section 31(1)(b);
 - (ii) a determination of the relevant Minister under section 36A;
 - (iii) a determination of the arbitral body under section 38; or
- (c) an access agreement or negotiated agreement under the native title provisions.

native title conditions are conditions to which an exploration permit or a mineral development licence is subject if—

- (a) a grant of a right to land to which the permit or licence relates is an act that has attracted the expedited procedures under the Commonwealth Native Title Act, section 32; or
- (b) the permit or licence is granted under an indigenous land use agreement under the Commonwealth Native Title Act, and the State is a party to the agreement.

15 First annual reports—Act, ss 141 and 194

The first annual report for an exploration permit mentioned in section 141(1)(e)(i) of the Act, or for a mineral development licence mentioned in section 194(1)(e)(i) of the Act, must contain, in addition to the information mentioned in sections 13 and 14—

- (a) for the first annual report for an exploration permit—a statement detailing the philosophy and objectives of the exploration to be carried out under the permit; or
- (b) for the first annual report for a mineral development licence—a statement detailing the purpose of the grant of the licence.

16 Partial surrender reports and partial relinquishment reports—Act, ss 141 and 194

(1) A report (a *partial relinquishment report*) for an exploration permit mentioned in section 141(1)(e)(ii) of the Act, or a report (a *partial surrender report*) for a mineral development licence mentioned in section 194(1)(e)(ii) of the Act, must contain the following—

- (a) the tenure information for the report;
- (b) the general area information for the report;
- (c) the geological model of—
 - (i) for a partial relinquishment report—the relinquished area of the exploration permit; or
 - (ii) for a partial surrender report—the surrendered area of the mineral development licence;
- (d) an assessment of the potential for mineral discovery in the relinquished area of the exploration permit or the surrendered area of the mineral development licence;
- (e) a summary of the results of all authorised activities for the exploration permit or mineral development licence, since the permit or licence took effect and the

[s 16]

conclusions drawn by the holder of the permit or licence based on the results;

- (f) a statement of the reason the holder of the exploration permit or the mineral development licence has relinquished or surrendered the area.
- (2) A map accompanying a partial relinquishment report or a partial surrender report must overlay a standard topographical or cadastral background, showing major topographic and geographic features and be at a standard industry-recognised scale.

Examples of geographic features—

bores, homesteads, mine workings, names of streams, peaks, prospects, roads

Examples of standard industry-recognised scales—

1: 1000000, 1: 250000

- (3) In this section—
- general area information*** for a partial relinquishment report or a partial surrender report means—
- (a) a location map showing—
 - (i) for a partial relinquishment report—the previous tenure area and the relinquished area of the exploration permit; or
 - (ii) for a partial surrender report—the previous tenure area and the surrendered area of the mineral development licence; and
 - (b) a map or spreadsheet showing the location, identified by a global positioning system unit using the Geocentric Datum of Australia 1994, in the relinquished area of the exploration permit or the surrendered area of the mineral development licence, of—
 - (i) each hole drilled under the permit or licence, as applicable; and

-
- (ii) all sampling undertaken in the previous tenure area of the permit or licence, as applicable, for any purpose and the laboratory identification of the sampling; and
 - (iii) any geochemical and geophysical surveying undertaken and a digital copy of all data in nominated standard formats; and
 - (iv) any three-dimensional models generated as part of exploration in the relinquished area of the permit or the surrendered area of the licence, as applicable; and
 - (v) each seismic line used for a seismic survey carried out under the permit or licence; and
- (c) a structure contour map or three-dimensional model showing the seismic horizons, or seismic reflectors, in the relinquished area of the exploration permit or the surrendered area of the mineral development licence; and
 - (d) a map showing the geophysical and geochemical anomalies and prospects or mineralisation in the relinquished area of the exploration permit or the surrendered area of the mineral development licence; and
 - (e) a general description of the topographical features of the previous tenure area of the exploration permit or mineral development licence, and the relinquished area of the permit or surrendered area of the licence, including, for example, access to the areas.

previous tenure area—

- (a) of an exploration permit—means the area of the permit immediately before the relinquished area was relinquished; or
- (b) of a mineral development licence—means the area of the licence immediately before the surrendered area was surrendered.

[s 17]

relinquished area, of an exploration permit, means the relinquished part of the area of the permit.

surrendered area, for a mineral development licence, means the surrendered part of the area of the licence.

tenure information means—

- (a) for a partial relinquishment report—
 - (i) the day the exploration permit was granted; and
 - (ii) the day the relinquishment takes effect; and
 - (iii) the period of the program of work for the permit; and
 - (iv) the block and sub-block description comprising the relinquished area; or
- (b) for a partial surrender report—
 - (i) the day the mineral development licence was granted; and
 - (ii) the day the surrender takes effect; and
 - (iii) the period of the program of work for the licence.

17 Final reports—Act, ss 141 and 194

- (1) A report (the ***final report***) for an exploration permit mentioned in section 141(1)(e)(iii) of the Act, or for a mineral development licence mentioned in section 194(1)(e)(iii) of the Act, must contain—
 - (a) the information mentioned in section 16(1)(a) to (f); and
 - (b) any information that has not been contained in—
 - (i) if the final report is for an exploration permit—a partial relinquishment report made under section 16 during the term of the permit; or
 - (ii) if the final report is for a mineral development licence—a partial surrender report made under section 16 during the term of the licence; and

-
- (c) a statement of expenditure (the *expenditure statement*) containing an itemisation of expenditure for—
 - (i) if the final report is for an exploration permit—the matters mentioned in section 14(2); or
 - (ii) if the final report is for a mineral development licence—the matters mentioned in section 14(2) and (3).
 - (2) The expenditure statement must—
 - (a) be in a document that is separate from the remainder of the final report; and
 - (b) given to the Minister together with the remainder of the final report.

18 Giving reports—Act, ss 141 and 194

- (1) For sections 141(1)(e) and 194(1)(e) of the Act, the prescribed way for giving a report is electronically, using the system (the *approved system*) for submission of reports approved by the chief executive.
- (2) A report lodged under subsection (1) must be in the digital format (the *approved format*) approved by the chief executive.
- (3) However, the report may be in hard copy form if the chief executive gives the holder of the exploration permit or mineral development licence, approval before the report is given.
- (4) The chief executive must ensure the approved system and a document detailing the approved format are available for inspection on the department's website.

Editor's note—

A document about the system for submission of reports is available for inspection at <<http://mines.industry.qld.gov.au>>.

Part 4 Mining leases

Division 1 Mining lease applications

19 Amendment of application after survey of contiguous land

- (1) This section applies if—
 - (a) an application for a mining lease applies to land that is contiguous to affected land; and
 - (b) at the time the application for the mining lease was made, the affected land had not been surveyed; and
 - (c) the affected land was later surveyed; and
 - (d) the chief executive has given the applicant a notice (the *notice*) stating—
 - (i) the survey of the affected land has been completed; and
 - (ii) all survey marks defining the boundary of the affected land have been placed.
- (2) The applicant may do the following so that the land to which the application relates is still contiguous to the affected land—
 - (a) amend the description of the land stated in the application;
 - (b) adjust the marking out of the land to which the application relates.
- (3) However, the amendment and adjustment mentioned in subsection (2) must—
 - (a) be made within 14 days after the applicant is given the notice or, if the Minister has approved a longer period, the longer period; and
 - (b) not cause the land to which the application relates to include any land that is not land to which the applicant's

prospecting permit, exploration permit or mineral development licence applies.

- (4) Also, this section does not authorise or entitle the applicant to have the affected land surveyed.

20 Person may obtain copy of mining lease application

- (1) A person may apply, in writing, to the chief executive for a copy of an application for a mining lease.
- (2) The application for the copy must be accompanied by the prescribed fee.
- (3) However, the chief executive must not give the person a copy of a statement that accompanied the application for the mining lease if the statement contains information about the financial or technical resources of the applicant for the mining lease.

Division 2 Required knowledge

21 Required level of knowledge about resources or reserves of petroleum

- (1) This section prescribes, for section 318BA(1)(c) of the Act, the required level of knowledge about a resource or reserve (the *deposit*) of petroleum in the land.
- (2) The Minister must be reasonably satisfied that—
- (a) at least 20% of the deposit is a proved or probable reserve under the relevant codes; and
- (b) the remainder of the deposit, if any, is a low or best estimate contingent resource under the relevant codes.
- (3) Also, for a deposit of coal seam gas, the Minister must be reasonably satisfied that—
- (a) there is adequate geological continuity for each coal seam (*relevant coal seam*) in relation to which the deposit occurs; and

[s 21]

- (b) there is adequate data to establish each of the following—
 - (i) the composition of the gas in the natural underground reservoir;
 - (ii) the volume of the gas in the natural underground reservoir in relation to the mass of the coal seam;
 - (iii) flow rates for the natural underground reservoir, based on information obtained from drill stem or other tests; and
 - (c) sufficient production testing for coal seam gas has been undertaken throughout the deposit in the relevant coal seams to provide adequate certainty in relation to the estimations required under subsection (2)(a) and (b); and
 - (d) there are reasonable prospects for the economic production of coal seam gas from the deposit.
- (4) The Minister may have regard to the document published by the Coalfields Geology Council of New South Wales and the Queensland Mining Council called ‘Australian guidelines for estimating and reporting of inventory coal, coal resources and coal reserves’ (2003) in deciding the amount of data required—
- (a) to make estimates of the resource or reserve for subsection (2)(a) and (b) for a deposit of coal seam gas; or
 - (b) for the Minister to be reasonably satisfied of the matters mentioned in subsection (3)(a) to (c).
- (5) In this section—
- relevant codes* see section 318BA(4) of the Act.

Division 3 Conditions applying to mining leases generally

22 Conditions—Act, s 276

For section 276(1)(l) of the Act, the conditions to which a mining lease is subject are the conditions stated in—

- (a) schedule 1, items 1 to 3; and
- (b) if the lease applies to occupied land—schedule 1, item 4.

Note—

See also part 5.

Division 4 Conditions applying to particular coal mining leases

23 Definitions for div 4

In this division—

adjacent petroleum lease, for relevant mining operations, see section 24(a)(ii).

chief inspector of coal mines means the chief inspector of coal mines under the *Coal Mining Safety and Health Act 1999*.

coal mine has the meaning given under the *Coal Mining Safety and Health Act 1999*, section 9.

coal mining operations has the meaning given under the *Coal Mining Safety and Health Act 1999*, schedule 3.

overlapping petroleum lease, for relevant mining operations, see section 24(a)(i).

petroleum lease means—

- (a) a lease under the *Petroleum Act 1923*; or

[s 24]

- (b) a petroleum lease under the Petroleum and Gas (Production and Safety) Act.

relevant mining lease see section 24.

relevant mining operations see section 24.

24 Application of div 4

This division applies for a coal mining lease (a *relevant mining lease*) if coal mining operations (*relevant mining operations*) carried out under the lease—

- (a) are carried out—
 - (i) within the area of a petroleum lease (an *overlapping petroleum lease*); or
 - (ii) adjacent to the area of a petroleum lease (an *adjacent petroleum lease*); and
- (b) physically affect, or may physically affect—
 - (i) the safety of persons or plant in the area of an overlapping or adjacent petroleum lease; or
 - (ii) the efficiency with which the authorised activities under an adjacent or overlapping petroleum lease can be carried out.

25 Condition if mining lease holder is mine operator

- (1) This section applies if the holder (the *mining lease holder*) of a relevant mining lease is the operator of the coal mine (the *mine*) at which the relevant mining operations are carried out.
- (2) It is a condition of the relevant mining lease that the mining lease holder—
 - (a) before starting to carry out the relevant mining operations, make a plan (the *plan*) for the mine that complies with section 27; and
 - (b) implement the plan; and

-
- (c) audit and review the plan during the period within which the mining operations are carried out.
- (3) If the mining lease holder is not the holder (the *petroleum lease holder*) of an overlapping or adjacent petroleum lease (the *petroleum lease*) affected by the relevant mining operations, it is also a condition of the relevant mining lease that, before making the plan, the mining lease holder—
- (a) make reasonable attempts to consult with the petroleum lease holder about the mining lease holder’s proposed plan for the mine; and
- (b) have regard to any reasonable provisions for the plan proposed by the petroleum lease holder, to the extent the proposed provisions are technically feasible for the mining lease holder or the holder of any adjacent or overlapping petroleum lease.
- (4) For subsection (3)(a), the mining lease holder is taken to have made reasonable attempts to consult if—
- (a) the mining lease holder gives the petroleum lease holder a copy of the mining lease holder’s proposed plan for the mine; and
- (b) the petroleum lease holder has not, within 20 days after being given the copy, made any proposal to the mining lease holder about the provisions for the plan.
- (5) If a dispute arises between the mining lease holder and the petroleum lease holder about the reasonableness of a provision proposed for the plan by the petroleum lease holder—
- (a) either party may refer the dispute to the chief inspector of coal mines under section 28; and
- (b) if a party refers the dispute and the chief inspector decides it—the chief inspector’s decision is binding on both parties.
- (6) A plan made under subsection (2) may relate to another coal mine operated by the mining lease holder at which coal

[s 26]

mining operations are carried out in or adjacent to the area of the petroleum lease.

- (7) The conditions mentioned in subsections (2) and (3) are taken to have been complied with if—
 - (a) a plan that complies with section 27 has been implemented for each coal mine, operated under the relevant mining lease, at which the relevant mining operations are carried out; and
 - (b) before making the plan, the consultation requirements under subsection (3) were complied with to the extent the plan was proposed to contain the matters mentioned in section 27.

26 Condition if mining lease holder not mine operator

- (1) This section applies if the holder (the *mining lease holder*) of a relevant mining lease is not the operator of the coal mine (the *mine*) at which the relevant mining operations are carried out.
- (2) It is a condition of the relevant mining lease that the mining lease holder give a person proposing to enter into a contract with the holder to act as the operator of the mine a notice containing all relevant information that—
 - (a) is available to the holder; and
 - (b) may assist the person in making a plan (the *plan*) for the mine that complies with section 27.
- (3) Subsection (4) applies if the mining lease holder is not the holder (the *petroleum lease holder*) of an overlapping or adjacent petroleum lease (the *petroleum lease*) affected by the relevant mining operations.
- (4) It is a condition of the relevant mining lease that the mining lease holder include in the contract appointing a person (the *operator*) to act as the operator of the mine, an obligation that, before making the plan, the operator—

- (a) give the petroleum lease holder a copy of the operator's proposed plan for the mine; and
 - (b) have regard to any reasonable provisions for the plan proposed by the petroleum lease holder within 20 days after the day the petroleum lease holder is given the copy, to the extent the proposed provisions are technically feasible for the operator or the holder of any overlapping or adjacent petroleum lease.
- (5) If a dispute arises between the operator and the petroleum lease holder about the reasonableness of a provision proposed for the plan by the petroleum lease holder—
- (a) either party may refer the dispute to the chief inspector of coal mines under section 28; and
 - (b) if a party refers the dispute and the chief inspector decides it—the chief inspector's decision is binding on both parties.
- (6) A plan made by the operator of the mine may relate to another coal mine—
- (a) operated by the operator under the relevant mining lease or another coal mining lease held by the mining lease holder; and
 - (b) at which coal mining operations are carried out in or adjacent to the area of the petroleum lease.

27 Requirements for plan

- (1) A plan for a coal mine mentioned in sections 25 and 26 is part of the safety and health management system for the mine and must—
- (a) be documented in a way that makes it capable of being audited; and
 - (b) be stored or kept together with the other parts of the safety and health management system for the mine; and
 - (c) identify and assess the risks to be controlled that—

[s 27]

- (i) are, or may be, created by the relevant mining operations carried out at the mine; and
- (ii) affect, or may be likely to affect, the safety of persons or plant in the area of an adjacent or overlapping petroleum lease; and
- (d) for each risk—identify the triggers or material changes, or likely triggers or material changes that—
 - (i) must be monitored to ensure the safety of persons or plant in the area of an adjacent or overlapping petroleum lease, including for example, specific purpose boundary monitoring; and
 - (ii) will require the plan to be reviewed; and
- (e) for each matter identified under paragraph (d)—
 - (i) state the response procedures and times; and
 - (ii) state the type of action required for the response; and

Examples of action that may be required—

- 1 a risk analysis
 - 2 notice to the petroleum lease holder of—
 - (a) a drop in hydrostatic pressure that may show a potential hazard to persons carrying out authorised activities under the petroleum lease; or
 - (b) a change in water that may show fluid interconnections with an adjacent petroleum lease
 - (iii) state the reporting procedures.
- (2) The potential hazard guide (the *guide*) in the *Coal Mining Safety and Health Regulation 2001*, schedule 1A is a list of potential hazards that may be created by coal mining operations in relation to exploring for or producing coal seam gas or petroleum.

-
- (3) A person preparing a plan under this section may refer to the guide for help in identifying and assessing the risks mentioned in subsection (1)(c).
 - (4) In this section—
safety and health management system, for a coal mine, see the *Coal Mining Safety and Health Act 1999*, schedule 3.

28 Chief inspector of coal mines may decide particular disputes

- (1) This section applies to the referral of a dispute to the chief inspector of coal mines under section 25(5) or 26(5).
- (2) The referral must be—
 - (a) written; and
 - (b) lodged at the office of the chief inspector of coal mines.
- (3) Before deciding the dispute, the chief inspector of coal mines must give each party to the dispute a reasonable opportunity to lodge, at the office of the chief inspector of coal mines, written submissions about the dispute.
- (4) The chief inspector of coal mines must give each party a notice of the chief inspector's decision and the reasons for it.
- (5) However, the chief inspector of coal mines may decide a dispute referred under section 25(5) or 26(5) only if the chief inspector, petroleum and gas, consents.
- (6) In this section—
chief inspector, petroleum and gas means the chief inspector under the Petroleum and Gas (Production and Safety) Act.

29 Mining lease holder must stop mining operations in particular circumstances

- (1) The holder (the *mining lease holder*) of a relevant mining lease must ensure the relevant mining operations carried out under the mining lease stop immediately if—

- (b) prescribes additional conditions for all mining tenements relating to the restricted areas mentioned in paragraph (a).

31 Conditions about access shafts

- (1) An access shaft used in the restricted area must—
 - (a) not have a diameter of more than 1m; and
 - (b) be backfilled after the mining activity, for which the access shaft was used, ends.
- (2) Also—
 - (a) no more than 3 access shafts may be open, at any time, on the land to which the mining tenement applies; and
 - (b) an opened access shaft must be interconnected for ventilation and egress while the mining activity, for which the access shaft is used, is being carried on.

Chapter 3 Royalties

Part 1 Preliminary

32 Definitions for ch 3

In this chapter—

holder, for a mineral, means the holder of a mining authority for mining the mineral.

mining operation means—

- (a) mining minerals under only 1 mining authority; or
- (b) mining minerals under 2 or more mining authorities if—

[s 33]

- (i) the authorities are held by the same person or by two or more persons who are relevant entities for each other; and
 - (ii) any stage of the mining is carried out by using a common mining facility; or
- (c) if the Minister has made a determination under section 320(8) of the Act—the operation determined by the Minister, under that section, as being 1 mining operation.

Part 2 Royalty returns

33 Application of pt 2

This part prescribes, for section 320(4) of the Act, the requirements for royalty returns lodged under the Act.

34 Form of royalty returns

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

35 Period to which a royalty return must relate

- (1) A royalty return required under the Act to be lodged by a person must relate to a period of—
- (a) if the mining operation to which the return relates is under 1 or more mining authorities, at least 1 of which is a mining lease—a calendar quarter; or
 - (b) otherwise—a financial year.
- (2) However, if the Minister considers it appropriate having regard to the amount of the royalty likely to be payable for a mining operation, the Minister may decide that—

- (a) for a mining operation to which subsection (1)(a) applies—a royalty return must relate to a financial year; or
 - (b) for a mining operation to which subsection (1)(b) applies—a royalty return must relate to a calendar quarter.
- (3) If the Minister makes a decision mentioned in subsection (2)(a) or (b)—
- (a) the Minister must give notice (the *notice*) of the decision to the person required to lodge the return; and
 - (b) the notice must state the day on which the decision is to take effect; and
 - (c) for subsection (2)(b)—the day stated in the notice can not be earlier than the day the Minister gives the person the notice.
- (4) The decision takes effect on the day stated in the notice.

36 When royalty return must be lodged

- (1) This section applies subject to section 37.
- (2) A royalty return required under the Act to be lodged that relates to a financial year must be lodged within—
 - (a) 3 months after the day the year ended; or
 - (b) if the mining operation to which the return relates ends within the year—3 months after the day the operation ended.
- (3) A royalty return required under the Act to be lodged that relates to a calendar quarter must be lodged on or before the last business day of the month after the day the quarter ended.
- (4) Subsection (3) applies whether or not the mining operation to which the royalty return relates ends within the calendar quarter.

[s 37]

- (5) Despite subsections (2) and (3), a person required under the Act to lodge a royalty return may lodge the return on a day (the *later day*) that is later than the day mentioned in subsection (2) or (3) if—
 - (a) the person has applied to the Minister in writing for approval to lodge the return on a later day; and
 - (b) the Minister has approved the lodgement of the return on the later day.
- (6) The prescribed fee must accompany a royalty return lodged after the day mentioned in subsections (2), (3) or (5).
- (7) The Minister may remit the whole or part of the prescribed fee.

37 Minister may require royalty return to be lodged on particular day

- (1) This section applies if the Minister considers that, for the protection of the public revenue, a royalty return should be lodged on a day that is earlier than the day mentioned in section 36(2), (3) or (5).
- (2) The Minister may, by notice, require the person required under the Act to lodge the royalty return to lodge it on a stated day that is at least 7 days after the day the Minister gives the person the notice.
- (3) The prescribed fee must accompany a royalty return lodged after the day mentioned in subsection (2).
- (4) The Minister may remit the whole or part of the prescribed fee.

38 No royalty return required in particular circumstances

- (1) No royalty return is required to be lodged for a return period if—

-
- (a) the mining operation to which the return relates consists of mining minerals only under 1 or more mining claims; and
 - (b) no royalty is payable for the mining operation for the return period; and
 - (c) the mining operation did not end within the return period.
- (2) However, subsection (1)—
- (a) does not prevent the Minister requiring, under section 327(1)(d) of the Act, the lodgement of a royalty return for the return period; and
 - (b) is taken not to apply for the return period for that purpose.

Part 3 Royalty payable for minerals

Division 1 Royalty payable

39 When royalty payable—yearly return period

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

40 When and how royalty payable—quarterly return period

- (1) Subject to section 41, 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 the last business day of the second month of the return period;

[s 40]

- (b) instalment 2 is payable on 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) In this section—

instalment 1, for a quarterly return period, means—

- (a) the amount payable by the person for the first month of the return period worked out under section 42; or
- (b) if an election under section 44(3) applies for the first month of the return period—the amount payable by the person for the first month worked out under section 44(5)(a).

instalment 2, for a quarterly return period, means—

- (a) the amount payable by the person for the second month of the return period worked out under section 42; or
- (b) if an election under section 44(3) applies for the second month of the return period—the amount payable by the person for the second month worked out under section 44(5)(b).

instalment 3, for a quarterly 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 *total royalty*)—the amount of the total royalty less the sum; or
- (b) otherwise—zero.

Note—

Section 75 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 Minister under section 74.

41 Quarterly payment notice

- (1) If the Minister considers it appropriate to do so, the Minister may, by 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 period.
- (2) A quarterly payment notice given to a person must state the period for which the notice applies.
- (3) If the Minister considers it appropriate to do so, the Minister may, by notice, withdraw a quarterly payment notice.
- (4) A withdrawal under subsection (3) takes effect from the start of the next return period after the end of the return period in which the notice of the withdrawal is given.

42 Working out monthly payments for quarterly return period generally

- (1) This section prescribes, for section 40(1), the amounts payable by a person for the first and second months of a return period (the *current return period*).

Note—

See, however, section 44.

- (2) The amount payable by the person for each of the first and second months of the current return period is a third of the total amount of 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 payable for the previous return period, made before the earlier of the following happens—
 - (i) the amount for the first month of the current return period is paid;
 - (ii) the amount for the first month of the current return period becomes payable; and

[s 43]

- (b) disregarding any determination under section 330 of the Act, and any reassessment under section 331 of the Act, for the royalty payable for the previous return period, made when, or after, the earlier of the events mentioned in paragraph (a)(i) and (ii) happens.

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).

43 Working out monthly payments for quarterly return period in particular circumstances

- (1) This section applies if—
 - (a) an amount is payable by a person under section 42(2) for the first and second months of a return period (the *current return period*); and
 - (b) either—
 - (i) the person did not lodge a royalty return for the previous return period, as required under the Act; or
 - (ii) the previous return period was not a calendar quarter.
- (2) For working out the amounts payable by the person under section 42(2)—
 - (a) the Minister may—
 - (i) if subsection (1)(b)(i) applies—estimate the total amount of royalty payable by the person under the Act for the previous return period; or
 - (ii) if subsection (1)(b)(ii) applies—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 calendar quarter; and

- (b) the Minister must give the person a notice stating the amount (the *estimated amount*) estimated by the Minister under paragraph (a)(i) or (ii); and
 - (c) the estimated amount is the total amount of royalty payable by the person under the Act for the previous return period.
- (3) In estimating an amount for subsection (2)(a)(i) or (ii), the Minister may have regard to—
- (a) any other royalty returns lodged by the person; and
 - (b) the size of the mining operation for which the royalty is payable; and
 - (c) any other relevant matter.

44 Election to change monthly payments for quarterly return period

- (1) This section applies if, at the relevant time—
- (a) 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 previous return period; and
 - (b) the Minister has not given the person a notice under section 45.
- (2) For subsection (1), the royalty payable by the person under the Act for the previous return period is the amount that, under section 42 or 43, is the royalty payable by the person under the Act for the previous return period for section 42(2).
- (3) The person may elect to change the amount payable for the first or second months of the current return period.

[s 44]

- (4) The election must—
- (a) be 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) unless the Minister, by giving notice to the person, approves another day for making the election—be lodged on or before—
 - (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; or
 - (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.

Note—

For the place where the election must be lodged, see section 95.

- (5) Subject to subsection (6)—
- (a) 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; or
 - (b) 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.
- (6) The amount payable, as changed under subsection (3) for the first or second months of a royalty return period, may be more than the amount payable under subsection (5)(a) or (5)(b).
- (7) In this section—
- 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 40.

45 Minister may give notice requiring royalty payable to be worked out under s 42

- (1) This section applies if—
 - (a) a person has previously made an election under section 44(3); and
 - (b) the Minister considers the person did not have a reasonable basis for forming the belief mentioned in section 44(1)(a) for the election.
- (2) The Minister may give the person a notice stating that the amounts payable by the person for the first and second months of 1 or more return periods must be worked out under section 42.
- (3) The person may not make an election under section 44(3) for a return period to which the notice relates.

46 Royalty payable

Subject to section 47, the royalty payable under the Act for all minerals sold, disposed of or used in a return period is payable at the following rate—

- (a) for a prescribed mineral—the royalty rate stated in schedule 3, part 1, section 2;
- (b) otherwise—the royalty rate stated for the mineral in schedule 3, part 2.

47 Particular royalties payable on adjustment basis

- (1) This section applies if—
 - (a) a prescribed mineral or a relevant mineral is sold; and
 - (b) under the terms of the contract of sale of the mineral, the gross value (the *actual gross value*) of the mineral under part 5 can not be finally worked out before the day the royalty return for the mineral is required to be lodged; and

[s 47]

- (c) the Minister has not given a notice under subsection (5) to the holder for the mineral.
- (2) The holder for the mineral must, when lodging the return mentioned in subsection (1)(b)—
 - (a) pay the amount of royalty (the *provisional royalty*) for the mineral at the rate prescribed under section 46, worked out on the basis of the assumed gross value for the mineral; and
 - (b) in the return (the *subsequent return*) lodged for the period within which the actual gross value can be finally worked out—state the amount that is the difference between—
 - (i) the amount (the *actual royalty*) of the royalty for the mineral at the rate prescribed under section 46, worked out on the basis of the actual gross value; and
 - (ii) the provisional royalty.
- (3) If the actual royalty is higher than the provisional royalty, the holder must pay the difference between the 2 amounts when the person lodges the subsequent return.

Note—

Under section 332 of the Act, unpaid royalty interest will accrue on the amount payable under subsection (3) if it is not paid by the required time.

- (4) If the actual royalty is less than the provisional royalty, the Minister must refund the amount that is the difference between the actual royalty and the provisional royalty, in either of the ways mentioned in section 75(2).
- (5) If the Minister decides that this section does not apply for a particular holder or a particular sale of a mineral, the Minister must give the holder a notice stating that this section does not apply.
- (6) In this section—

assumed gross value, for a mineral, means the gross value for the mineral worked out under part 5 by reference to the information available for the return period mentioned in subsection (2)(a).

relevant mineral means any of the following—

- (a) iron ore;
- (b) manganese;
- (c) molybdenum;
- (d) tantalum;
- (e) tungsten.

48 Royalty on stocks of mineral for mining operation that has ended

- (1) This section applies if—
 - (a) a mining operation has ended; and
 - (b) there are minerals mined under the operation that have not been sold, disposed of or used; and
 - (c) the Minister reasonably believes the minerals will not be sold, disposed of or used within 1 year after the day the operation ended.
- (2) The return for the royalty period in which the mining operation ended must include royalty for the minerals at the rate prescribed under section 46.
- (3) If any of the minerals is coal seam gas, the Minister must decide the value of the gas worked out under section 53, as if the gas had been sold, disposed of or used.
- (4) If any of the minerals is a mineral, other than coal seam gas, for which the royalty payable must be worked out by reference to the mineral's value, the Minister must decide—
 - (a) the gross value of the mineral, worked out under part 5 as if the mineral had been sold, disposed of or used; and

[s 49]

- (b) the value of the mineral, worked out under section 54, as if the mineral had been sold, disposed of or used.

Division 2 Exemptions

49 Exemption for coal seam gas

- (1) No royalty is payable for coal seam gas that is—
 - (a) flared or vented; or
 - (b) for incidental coal seam gas mined under a mining lease, or coal seam gas mined under a mineral hydrocarbon mining lease—used beneficially for mining the coal that produced the gas.

Note—

See sections 318CM and 747 of the Act.

- (2) However, subsection (3) applies if incidental coal seam gas mined under a mining lease, or coal seam gas mined under a mineral hydrocarbon mining lease, is used to generate electricity that is—
 - (a) partly used for mining under the mining lease; and
 - (b) partly used for another purpose.
- (3) Subsection (1) applies only to the proportion of the gas that is equivalent to the proportion of the electricity generated from the gas that is used for mining under the mining lease.
- (4) Despite subsection (1)(b), if the first underground mining of coal under a mining lease started before 31 December 2004, coal seam gas produced under the lease and used beneficially for mining under the lease is exempt from royalty.

50 Threshold exemption for relevant minerals

- (1) No royalty is payable on the first \$100000 of the total value of a relevant mineral, mined under a mining operation, that is sold, disposed of or used in a financial year.

-
- (2) If more than 1 relevant mineral mined under a mining operation is sold, disposed of or used in a financial year—
- (a) the person by whom the royalty is payable under the Act for the minerals must nominate 1 of the minerals (the ***nominated mineral***); and
 - (b) no royalty is payable on the first \$100000 of the total value of the nominated mineral that is sold, disposed of or used in the financial year.
- (3) However, if less than \$100000 of value of the nominated mineral is sold, disposed of or used in the financial year, the person may repeat the process under subsection (2) until the combined value of the relevant minerals nominated by the person and sold, disposed of or used in the financial year reaches \$100000.
- (4) The nomination must be stated in the return for the mineral lodged for the relevant return period.
- (5) In this section—
- relevant mineral*** means any of the following—
- (a) corundum;
 - (b) a gemstone;
 - (c) manganese;
 - (d) molybdenum;
 - (e) a precious stone;
 - (f) a prescribed mineral;
 - (g) a rare earth;
 - (h) tantalum;
 - (i) tungsten;
 - (j) a mineral mentioned in schedule 3, part 2, section 13.

relevant return period means the return period in which the threshold exemption is claimed for a relevant mineral for this section.

Division 3 Discounts for particular minerals

51 Particular minerals processed in Queensland

- (1) This section applies to royalty payable for a relevant mineral sold, disposed of or used if—
 - (a) the mineral is processed in the State; and
 - (b) after the mineral is processed, it has a metal content of—
 - (i) for cobalt—at least 50%; or
 - (ii) for copper, iron ore, lead, tantalum and zinc—at least 95%; or
 - (iii) for manganese—at least 75%; or
 - (iv) for molybdenum—at least 56%; or
 - (v) for nickel—at least 70%; or
 - (vi) for tungsten (WO₃)—at least 89%.
- (2) For subsection (1), a mineral is processed if it is changed to another substance by a process, including, for example, leaching, refining, smelting and solvent extraction electro winning (SX-EW).
- (3) The royalty payable for the relevant mineral is reduced by—
 - (a) for cobalt, copper, iron ore, nickel, molybdenum and tungsten—20%; or
 - (b) for lead—25%; or
 - (c) for manganese, tantalum and zinc—35%.
- (4) In this section—

relevant mineral means any of the following—

 - (a) cobalt;
 - (b) copper;
 - (c) iron ore;

- (d) lead;
- (e) manganese;
- (f) molybdenum;
- (g) nickel;
- (h) tantalum;
- (i) tungsten;
- (j) zinc.

Part 4 Working out values of minerals

52 Application of pt 4

This part applies to a mineral for which, under part 3, the royalty payable in relation to the mineral must be worked out by reference to the value of the mineral.

Note—

See sections 46 to 48 and schedule 3, part 2.

53 Value of coal seam gas

The value of coal seam gas must be worked out in the same way as the value of petroleum is worked out for the Petroleum and Gas (Production and Safety) Act, section 590(3).

54 Value of minerals other than coal seam gas

- (1) Subject to subsection (3), the value of a mineral other than coal seam gas must be worked out by—
 - (a) working out the gross value of the mineral under part 5;
and

[s 54]

- (b) subtracting the following amounts from the gross value—
 - (i) any marine cost for the mineral;
 - (ii) if the mineral is a prescribed mineral or a relevant mineral—the amount the Minister has decided, on reasonable grounds, is the amount that should be subtracted from the gross value to allow for the loss of metal content in the processing of the mineral;
 - (iii) any other cost the Minister has decided, on reasonable grounds, is a type of cost that should be subtracted from the gross value.
- (2) However, if the mineral is coal, any amount relating to an early despatch of the coal from a port must be added to the gross value before the amounts mentioned in subsection (1)(b) are subtracted from it.
- (3) In working out the value of a mineral that is sold, regard must be had to whether the value has increased or decreased as a result of a change in the exchange rate from the time the mineral was sold to the time any payment for the sale is received.
- (4) In this section—

marine cost means—

 - (a) for coal—
 - (i) a cost relating to a late despatch of the coal from a port; or
 - (ii) a freight or an insurance cost relating to the transport of the coal by water to a port outside the State; or
 - (b) for another mineral—a freight or an insurance cost relating to the transport by water, to a port outside the State, of—
 - (i) the mineral; or

- (ii) if the mineral is oil shale that has been processed—
the oil processed from the oil shale.

relevant mineral means any of the following—

- (a) iron ore;
- (b) manganese;
- (c) molybdenum;
- (d) tantalum;
- (e) tungsten.

Part 5 **Working out gross values of minerals other than coal seam gas**

Division 1 **Preliminary**

55 **Application of pt 5**

This part applies to a mineral for which, under section 54, the value of the mineral must be worked out by reference to its gross value.

56 **Definitions for pt 5**

In this part—

average listed price, for a mineral, means a price worked out by averaging the prices listed for the mineral in a recognised listing over a particular period of not longer than 3 months.

earlier return period, in relation to a mineral, means a return period relating to the mineral that occurs before the Minister—

[s 56]

- (a) makes a gross value royalty decision under section 63;
or
- (b) amends a gross value royalty decision for a mineral under section 65 or 68.

gross value, of a mineral, means—

- (a) for a mineral that is a market value mineral—see section 58; or
- (b) for a mineral that is not a market value mineral—see section 59.

gross value royalty decision, for a mineral, means a decision made by the Minister under section 63.

listed price, for a mineral, means the price listed for the mineral in a recognised listing at the time the mineral is sold, disposed of or used.

market value mineral see section 57.

recognised listing means a list of quoted or published prices of minerals—

- (a) on a recognised international mineral exchange or market; or

Examples of recognised international mineral exchange or market—

London Metal Exchange, London Bullion Market

- (b) in a publication recognised for quoting or publishing prices of minerals in an international market.

Example of publication for paragraph (b)—

Metal Bulletin

relevant entity, for a holder for a mineral, means—

- (a) for a holder that is a corporation—
 - (i) an associated entity of the corporation within the meaning of the Corporations Act, section 50AAA;
or

- (ii) a related entity of the corporation within the meaning of the Corporations Act, section 9, definition *related entity*; or
- (iii) a related party of the corporation within the meaning of the Corporations Act, section 228; or
- (b) for a holder who is an individual—a related person of the individual within the meaning of the *Duties Act 2001*, section 61, other than section 61(1)(d).

Division 2 **Gross value of market value minerals**

57 **Meaning of *market value mineral***

- (1) A mineral mined by the holder for the mineral is a *market value mineral* if—
 - (a) the mineral is sold at a listed price or an average listed price; or
 - (b) the mineral is disposed of or used and a market value for the mineral may be established by reference to a listed price, or an average listed price, for the mineral; or
 - (c) neither paragraph (a) nor (b) applies to the mineral and—
 - (i) the mineral is sold in an arms-length transaction to a person other than a relevant entity for the holder; and
 - (ii) the holder has sold a mineral of the same kind in an arms-length transaction in the previous 2-year period to a person other than a relevant entity for the holder; or
 - (d) paragraphs (a) to (c) do not apply to the mineral and the holder entered into an agreement, before or as soon as practicable after the mineral was mined, to sell the

[s 58]

mineral in an arms-length transaction to a person other than a relevant entity for the holder.

(2) However, a mineral mined by the holder for the mineral is not a *market value mineral* if—

(a) the mineral is sold or disposed of to, or used by, a relevant entity for the holder and the relevant entity is involved in the marketing or reselling of the mineral or in the production of a commodity using the mineral; or

Examples for paragraph (a)—

- 1 The holder mines coal and the coal is used by a related body corporate for the holder to produce electricity in a power station.
- 2 The holder mines coal and the coal is sold to a related body corporate for the holder, which sells the coal to another person in an arms-length transaction.

(b) the mineral is sold or disposed of to, or used by, a person and the holder receives a non-financial benefit from the sale, disposal or use (whether or not the holder also receives a financial benefit from the sale, disposal or use).

Example for paragraph (b)—

The holder sells coal to another person for a price but also receives goods from the other person in return for the coal.

58 Gross value of market value minerals

(1) The gross value of a market value mineral that is a prescribed mineral or a relevant mineral is—

(a) if the mineral is a market value mineral under section 57(1)(a)—the amount obtained for the mineral by selling it at the listed price, or average listed price, for the mineral, disregarding any processing cost for the mineral; or

(b) if the mineral is a market value mineral under section 57(1)(b)—the market value established for the mineral by reference to a listed price, or average listed price, for

- the mineral, disregarding any processing cost for the mineral; or
- (c) if the mineral is a market value mineral under section 57(1)(c) or (d)—the amount for which the mineral is sold, disregarding any processing cost for the mineral.
- (2) The gross value of a market value mineral other than a prescribed mineral or a relevant mineral is—
- (a) if the mineral is a market value mineral under section 57(1)(a), (c) or (d)—the amount for which the mineral is sold; or
- (b) if the mineral is a market value mineral under section 57(1)(b)—the market value established for the mineral by reference to a listed price, or average listed price, for the mineral.
- (3) However, if a mineral is sold and an amount in relation to the royalty payable for the mineral is recovered from the buyer, the gross value of the mineral is the total of—
- (a) the amount worked out under subsection (1) or (2); and
- (b) the amount recovered.
- (4) In this section—
- relevant mineral*** means any of the following—
- (a) iron ore;
- (b) manganese;
- (c) molybdenum;
- (d) tantalum;
- (e) tungsten.

Division 3 Gross value of minerals other than market value minerals

Subdivision 1 Gross value royalty decisions

59 Gross value of minerals other than market value minerals

If a mineral is not a market value mineral, the gross value of the mineral is—

- (a) the amount decided by the Minister in a gross value royalty decision for the mineral; or
- (b) if the mineral is sold and an amount in relation to the royalty payable for the mineral is recovered from the buyer—the total of—
 - (i) the amount decided by the Minister in a gross value royalty decision for the mineral; and
 - (ii) the amount recovered.

60 Application for gross value royalty decision

- (1) This section applies to the holder for a mineral if, for a period—
 - (a) no gross value royalty decision applies for the mineral; and
 - (b) the mineral is not, or may not be, a market value mineral.
- (2) Before, or as soon as practicable after, selling or disposing of or using the mineral, the holder must make an application to the Minister under this section for a gross value royalty decision for the mineral.

Maximum penalty—20 penalty units.

- (3) The application must—
 - (a) be in writing; and

-
- (b) state the proposed method for working out the gross value of the mineral, including for a particular transaction or class of transaction; and

Examples of methods for paragraph (b)—

- a fixed value with adjustments for particular circumstances
- a formula for deciding the market value

- (c) state the proposed period for which the gross value royalty decision is to apply.

Note—

For the place where the application must be lodged, see section 95.

- (4) The application may be made for 1 or more return periods.

61 Gross value royalty decision on Minister's own initiative

- (1) The Minister may, on the Minister's own initiative, decide to make a gross value royalty decision under section 63 for a mineral if, for a period—
- (a) the Minister reasonably believes the mineral is not, or may not be, a market value mineral; and
 - (b) the holder for the mineral has not applied under section 60 for a gross value royalty decision.
- (2) If the Minister decides to make a gross value royalty decision for a mineral on the Minister's own initiative, the Minister must—
- (a) give the holder for the mineral notice that the Minister proposes to make a gross value royalty decision for the mineral; and
 - (b) invite the holder to make submissions about the proposed gross value royalty decision within—
 - (i) the period of 28 days after the day the Minister gives the holder the notice; or
 - (ii) if the Minister approves a longer period—the longer period.

62 Considerations for gross value royalty decisions

In making a gross value royalty decision for a mineral, the Minister may consider—

- (a) any document or information the Minister reasonably considers relevant for making the decision; and
- (b) any of the following matters—
 - (i) the amount for which a mineral of the same kind has been sold in an arms-length transaction to a person other than a relevant entity for the holder;
 - (ii) the amount for which a product made using the mineral, or a mineral of the same kind, has been sold;
 - (iii) how the value of the mineral can be adjusted to reflect changes to the market value of the mineral;
 - (iv) the expenses incurred or likely to be incurred by the holder for the mineral when selling the mineral in an arms-length transaction to a person other than a relevant entity for the holder;
 - (v) the nature of the relationship between the holder for the mineral and the entity—
 - (A) to which the mineral has been, or is to be, sold or disposed of; or
 - (B) which has used, or is to use, the mineral;
 - (vi) the period to which the gross value royalty decision, or aspects of the decision, will apply;
 - (vii) the need for any future adjustment of the gross value royalty decision, or aspects of the decision;
 - (viii) any submissions made to the Minister by the holder for the mineral about the gross value of the mineral;
 - (ix) any other relevant matter.

63 Gross value royalty decisions

- (1) This section applies if the Minister—
 - (a) receives an application under section 60 for a gross value royalty decision for a mineral; or
 - (b) decides under section 61 to make a gross value royalty decision for a mineral on the Minister's own initiative.
- (2) The Minister must decide the gross value for the mineral under this section.
- (3) The Minister's decision under this section is a ***gross value royalty decision***.
- (4) A gross value royalty decision for a mineral may provide for any or all of the following—
 - (a) different gross values of the mineral for different periods within the period for which the decision applies; or
 - (b) the application of the decision for an earlier return period for the mineral; or
 - (c) the application of the decision for a particular transaction or class of transaction.
- (5) After making a gross value royalty decision for a mineral, the Minister must give the holder for the mineral a notice stating—
 - (a) the reasons for the decision; and
 - (b) either—
 - (i) the gross value of the mineral; or
 - (ii) the basis for working out the gross value of the mineral; and
 - (c) the period for which the decision applies; and
 - (d) if the decision applies for a particular transaction or class of transaction—the transaction or class of transaction.

Subdivision 2 Incorrect gross value royalty decisions

64 Obligation to notify incorrect gross value royalty decision

- (1) This section applies if—
 - (a) a holder for a mineral to which a gross value royalty decision (the *existing decision*) applies becomes aware that the existing decision was not, or is no longer, correct; and
 - (b) the gross value of the mineral, correctly decided, would be greater than the value stated in the existing decision.
- (2) Within 30 days after becoming aware the existing decision was not, or is no longer, correct, the holder must—
 - (a) advise the Minister, in writing—
 - (i) that the decision was not, or is no longer, correct; and
 - (ii) the reason the decision was not, or is no longer, correct; and
 - (b) give the Minister any relevant documents or information to enable the gross value of the mineral to be correctly decided.

Maximum penalty—20 penalty units.

65 Minister may amend gross value royalty decision

- (1) The Minister may amend a gross value royalty decision (an *existing decision*) applying to a mineral if the Minister is reasonably satisfied that the existing decision was not, or is no longer, correct.
- (2) If the Minister decides to amend an existing decision under subsection (1) to increase the gross value applying for a mineral under the decision, the Minister must—

-
- (a) give the holder for the mineral notice that the Minister proposes to amend the existing decision; and
 - (b) invite the holder to make submissions about the proposed amendment within—
 - (i) the period of 28 days after the day the Minister gives the holder the notice; or
 - (ii) if the Minister approves a longer period—the longer period.
 - (3) In amending an existing decision, the Minister may consider the matters mentioned in section 62.
 - (4) An amendment of an existing decision under subsection (1) must, for a return period for which the decision applies, be made within 5 years after the day that royalty was payable for that return period.
 - (5) However, the Minister may, under subsection (1), amend an existing decision at any time to increase the gross value applying for a mineral under it if the Minister reasonably believes that before the existing decision was made, the holder for the mineral, or a person acting on behalf of the holder—
 - (a) knowingly misled the Minister, or knowingly caused the Minister to be misled, about a matter relevant for deciding the gross value of the mineral; or
 - (b) deliberately failed to give the Minister documents or information relevant for deciding the gross value of the mineral.
 - (6) The Minister can not be compelled to amend the existing decision under subsection (1) to decrease the gross value applying for a mineral under the decision if, for a return period, royalty has become payable for that period.

66 Notice of amendment

After amending an existing gross value royalty decision under section 65, the Minister must give the holder for the mineral to which the existing decision applied a notice stating—

[s 67]

- (a) the existing decision has been amended; and
- (b) the reasons for the amendment; and
- (c) the period for which the amended decision applies; and
- (d) if the amendment applies for an earlier return period—that the Minister will reassess the amount of royalty payable for the earlier return period for which the amendment applies.

Note—

For reassessment of royalty payable see subdivision 4.

Subdivision 3 Review of gross value royalty decisions

67 Review application

- (1) The holder for a mineral may apply to the Minister to review—
 - (a) a gross value royalty decision for the mineral made under section 63; or
 - (b) an amendment, made under section 65, of a gross value royalty decision for the mineral.
- (2) The application must—
 - (a) be in writing; and
 - (b) state the reasons for requesting the review.

Note—

For the place where the application is required to be lodged, see section 95.

- (3) If the application seeks a review of a gross value royalty decision made under section 63, the holder must lodge it within—
 - (a) 60 days after the day the Minister gives the holder the notice mentioned in section 63(5); or

- (b) if the Minister approves a longer period for lodging the application—the longer period.
- (4) If the application seeks a review of an amendment, made under section 65, of a gross value royalty decision, the holder must lodge it within—
 - (a) 60 days after the day the Minister gives the holder the notice mentioned in section 66; or
 - (b) if the Minister approves a longer period for lodging the application—the longer period.

68 Review decision

- (1) If the holder for a mineral makes an application (the *review application*) under section 67, the Minister must decide the application by either affirming or amending the decision (the *original decision*) the subject of the review application.
- (2) If the original decision was made by a delegate of the Minister, the delegate must not decide the review application.
- (3) In deciding the review application, the Minister may consider the matters mentioned in section 62.

69 Notice of review decision

After deciding a review application under section 68, the Minister must give the applicant a notice stating—

- (a) that the Minister has affirmed or amended the original decision; and
- (b) the reasons for the Minister’s decision to affirm or amend the original decision; and
- (c) if the Minister has amended the original decision—the period for which the amended decision applies; and
- (d) if the amended decision applies for an earlier return period—that the Minister will reassess the amount of

[s 70]

royalty payable for the earlier return period for which the amendment applies.

Note—

For reassessment of royalty payable, see subdivision 4.

Subdivision 4 Reassessment if gross value royalty decision amended

70 Application of sdiv 4

This subdivision applies if an amendment of a gross value royalty decision under section 65 or 68 applies for an earlier return period.

71 Minister must reassess royalty payable

The Minister must reassess, under section 331 of the Act, the royalty payable for the mineral for each royalty return period to which the amendment applies.

72 Notice requirement if royalty paid lower than reassessed amount

- (1) If, on a reassessment under section 71, the royalty paid for a return period is lower than the amount of royalty payable under the reassessment for the return period, the Minister must give the person who paid the royalty a notice stating—
 - (a) the amount (the *royalty difference*) of the difference between the royalty paid and the royalty payable for the return period; and
 - (b) that the person must pay the royalty difference on or before the day stated (the *stated day*) in the notice; and
 - (c) that, under section 332 of the Act, unpaid royalty interest is payable on the amount of the royalty difference unpaid from time to time, for the period—

-
- (i) starting on, and including, the day after the lodgement day; and
 - (ii) ending on, and including, the day the amount of the royalty difference is paid in full; and
 - (d) the rate at which the interest is payable.
- (2) The stated day must be at least 28 days after the day the Minister gives the notice to the person.
- (3) In this section—
- lodgement day*** means the day a royalty return must be lodged for the return period, disregarding any later day for lodging the return approved by the Minister under section 36(5).

73 Refund on reassessment

- (1) This section applies if, on a reassessment under section 71, the amount of royalty paid for a previous return period is higher than the amount of royalty payable for the period under the reassessment.
- (2) The Minister must refund the amount (the *excess*) that is the difference between the amounts mentioned in subsection (1) by—
- (a) repaying the excess to the person; or
 - (b) crediting the excess against—
 - (i) an amount the Minister is reasonably satisfied is, or will be, payable by the person for royalty, unpaid royalty interest or a civil penalty; or
 - (ii) a prescribed fee payable by the person under section 36.

[s 74]

Part 6 Assessment of royalty payable

74 Assessment

The Minister must assess the royalty payable under the Act for each royalty return lodged under the Act.

75 Refund on assessment

- (1) This section applies if—
- (a) a person has lodged a royalty return for a return period; and
 - (b) the amount of royalty paid for the return period is more than the amount of royalty that the Minister assesses under section 74 as being payable under the Act for the period.

Note—

For a refund for an excess royalty payment resulting from an amendment of a gross value royalty decision, see section 73.

- (2) The Minister must refund the amount (the *excess*) that is the difference between the amounts mentioned in subsection (1) (b) by—
- (a) repaying the excess to the person; or
 - (b) crediting the excess against—
 - (i) an amount the Minister is reasonably satisfied is, or will be, payable by the person for royalty, unpaid royalty interest or a civil penalty; or
 - (ii) a prescribed fee payable by the person under section 36.

76 Notice requirement if royalty paid lower than amount assessed

- (1) This section applies if—

-
- (a) a person has lodged a royalty return for a return period; and
 - (b) the amount of royalty paid for the return period is less than the amount of royalty that the Minister assesses under section 74 as being payable under the Act for the period.
- (2) The Minister must give the person a notice stating—
- (a) the amount of unpaid royalty payable for the return period; and
 - (b) that the person must pay the unpaid royalty on or before the day (the *stated day*) stated in the notice; and
 - (c) that, under section 332 of the Act, unpaid royalty interest is payable on the amount unpaid from time to time, for the period—
 - (i) starting on, and including, the day after the lodgement day; and
 - (ii) ending on, and including, the day the unpaid royalty is paid in full; and
 - (d) the rate at which the interest is payable.
- (3) The stated day must be at least 7 days after the day the Minister gives the notice to the person.
- (4) In this section—

lodgement day means the day a royalty return must be lodged for the return period, disregarding any later day for lodging the return approved by the Minister under section 36(5).

Part 7 Civil penalty

77 Imposition—Act, s 321A

- (1) This section applies if a person makes a section 44 election and either—
 - (a) the royalty payable for the current return period exceeds the royalty payable for the previous return period by an amount that is more than 15% of the royalty payable for the previous return period; or
 - (b) both of the following apply—
 - (i) the royalty payable for the current return period is less than the royalty payable for the previous return period;
 - (ii) the total of the royalty payable for the first month and the second month of the current return period is less than 50% of the total royalty payable for the current return period.
- (2) The person is liable to the State for an amount (*civil penalty*) equal to 25% of the default estimate difference, if any, for each month of the current return period for which the person makes the section 44 election.
- (3) For subsection (2), the *default estimate difference* for a month of the current return period is the difference between—
 - (a) the amount that would have been payable for the month under section 42 if the person had not made the section 44 election; and
 - (b) the amount payable for the month under the section 44 election.
- (4) However, if the amount mentioned in subsection (3)(a) is less than the amount mentioned in subsection (3)(b), the default estimate difference for the month is taken to be zero.
- (5) Subsection (6) applies if, for royalty payable for the current return period—

-
- (a) a determination is made under section 330 of the Act; or
 - (b) a reassessment is made under section 331 of the Act.
- (6) For subsection (1)—
- (a) the royalty payable for the current return period is the amount of royalty payable taking into account the determination or reassessment; and
 - (b) a reference to the royalty payable for the previous return period is a reference to the amount worked out under section 44(2).
- (7) The Minister may remit the whole or part of the civil penalty.
- (8) In this section—

current return period see section 44(1)(a).

section 44 election means an election under section 44(3) to change the amount payable to the State for the first month or the second month of the current return period.

78 Notice

- (1) If a person is liable to pay a civil penalty, the Minister must give the person a notice stating—
- (a) the amount of the civil penalty that is payable; and
 - (b) that the person must pay the civil penalty on or before the day stated in the notice.
- (2) For subsection (1)(b), the day must be at least 28 days after the day the Minister gives the notice to the person.

79 Civil penalty not payable if proceeding for offence started

- (1) This section applies if—
- (a) a person is liable to pay a civil penalty because of an act or omission of the person; and
 - (b) the act or omission constitutes an offence (the *offence*) under the Act.

[s 80]

Example of an act or omission constituting an offence—

giving a false or misleading statement in contravention of the Act, section 329

- (2) If a proceeding is started against the person for the offence and the civil penalty has not been paid to the State, the civil penalty is payable only if the proceeding against the person is withdrawn.
- (3) If the civil penalty has been paid to the State, but a proceeding is started against the person for the offence, the amount of the civil penalty must be remitted in full.
- (4) However, if the proceeding against the person is withdrawn, the civil penalty remitted under subsection (3) again becomes payable by the person.

Part 8 Unpaid royalty interest

80 Rate—Act, s 332

For section 332(2)(a) of the Act, the rate of interest on unpaid royalty is the rate prescribed for unpaid tax interest under the *Taxation Administration Act 2001*, section 54(2).

81 Working out unpaid royalty interest on royalty payable for quarterly return period—Act, s 332

- (1) This section applies for working out the period for which unpaid royalty interest accrues under section 332 of the Act, if—
 - (a) royalty is payable by a person under section 40(1) for a quarterly return period; and
 - (b) the person has not paid all of the amount payable for instalment 1, instalment 2 or instalment 3 as required under section 40.

-
- (2) If instalment 1 or instalment 2 is not paid in full by the day required under section 40, unpaid royalty interest accrues on the amount unpaid from time to time, for the period—
- (a) starting on, and including, the day after the day the instalment is required to be paid; and
 - (b) ending on, and including, the earlier of the following days—
 - (i) the day the instalment is paid in full;
 - (ii) the lodgement day.
- (3) If the royalty payable for the quarterly return period is not paid in full on the lodgement day, unpaid royalty interest accrues on the total amount unpaid, from time to time, for the period—
- (a) starting on, and including, the day after the lodgement day; and
 - (b) ending on, and including, the day the total amount is paid in full.
- (4) In this section—

lodgement day means the day a royalty return must be lodged for the quarterly return period, disregarding any later day for lodging the return approved by the Minister under section 36(5).

Part 9 Royalty estimates

82 Application of pt 9

This part provides for matters about royalty estimates, including by prescribing matters for section 327A(2) and (3)(a) of the Act.

83 Royalty estimate notices

- (1) The notice given by the Minister to a person under section 327A(1) of the Act (a *royalty estimate notice*) must include the following—
 - (a) the period (the *estimate period*) for which the person is to estimate the royalties payable by the person under section 320 of the Act;
 - (b) the day by which the person must provide the royalty estimate;
 - (c) the form in which the person must provide the royalty estimate;
 - (d) a description of the information the person must provide in the royalty estimate.
- (2) For subsection (1)(d), the information the Minister may ask the person to provide in the royalty estimate includes the following—
 - (a) an estimate of the royalties payable by the person under section 320 of the Act for the estimate period;
 - (b) identification of each type of mineral the person expects to sell, dispose of or use in the estimate period;
 - (c) for each type of mineral identified for paragraph (b)—an estimate of the volume of the mineral the person expects to sell, dispose of or use in the estimate period;
 - (d) any exchange rate the person has assumed for working out the estimate of royalties mentioned in paragraph (a).
- (3) Subsection (2) does not limit the information the Minister may ask a person to provide in the royalty estimate.

84 Form of and information to be included in royalty estimate

The royalty estimate must—

- (a) be in the form stated in the royalty estimate notice; and

- (b) include the information the Minister has asked for in the royalty estimate notice.

85 Minister may request information to support royalty estimate

- (1) The Minister may, by notice to a person who has lodged a royalty estimate, ask the person to give the Minister, by the day stated in the notice, information to support the matters stated in the royalty estimate.
- (2) The Minister may, by notice to a person who must provide a royalty estimate under section 327A(2) of the Act, ask the person to give the Minister, by the day stated in the notice, additional information about the matters that must be included in the royalty estimate.
- (3) If the Minister gives a person a notice under subsection (1) or (2), the person must provide the information by the day stated in the notice.

Chapter 4 Miscellaneous

Part 1 Administration and judicial functions

86 Amount held by tribunal for compensation trust decision—Act, s 712

- (1) The amount paid to the tribunal under section 712(1)(a) of the Act must be held in the way specified in the *Court Funds Act 1973*, sections 7 and 8.
- (2) For subsection (1), a reference in the *Court Funds Act 1973*—

[s 87]

- (a) to ‘court’ or ‘the court’ is taken to be a reference to the tribunal; and
- (b) to ‘the registrar’ is taken to be a reference to the registrar of the tribunal.

Part 2 Registers

87 Registration of transmission by death

- (1) This section applies if—
 - (a) either of the following persons has died—
 - (i) an applicant for a mining lease;
 - (ii) the holder of an interest in a mining claim, exploration permit, mineral development licence or mining lease; and
 - (b) a grant of probate or letters of administration has not been granted; and
 - (c) there has been a transmission by death.

Note—

For registration of dealings with mining tenements generally, see chapter 7, part 1, division 2 of the Act.

- (2) The chief executive may register the transmission by death only if—
 - (a) it has been at least 6 months since the person died; and
 - (b) the Minister is satisfied the value of the estate is not sufficient to justify the expense of an application for a grant of probate or letters of administration.

88 Priority of registration

- (1) This section applies if—

-
- (a) a document relating to a mining tenement is lodged for registration; and
 - (b) the document can not be registered because the authorising document for the mining tenement, or an application under the Act for the mining tenement, is not produced with the document; and
 - (c) another document is lodged together with the authorising document for the mining tenement or an application under the Act for the mining tenement.
- (2) The chief executive must register the document lodged with the authorising document or application in priority.

Part 3 Requirements for mortgagees exercising power of sale

89 Definition for pt 3

In this part—

mining tenement means—

- (a) a mining claim; or
- (b) a mineral development licence; or
- (c) a mining lease; or
- (d) an interest in a claim, licence or lease mentioned in paragraphs (a) to (c).

90 Exercise of power of sale by mortgagee

- (1) A mortgagee of a mining tenement may exercise the mortgagee's power of sale in relation to the mining tenement if—
- (a) the mortgagor defaults under the mortgage; and

[s 91]

- (b) the mortgagee gives the mortgagor a notice to remedy the default; and
 - (c) the mortgagor has not remedied the default stated in the notice within 30 days after the notice is given.
- (2) However, the mortgagee must not exercise the power of sale until at least 28 days after the mortgagee has published a notice, in the relevant publication for the mining tenement, stating that the mortgagee intends to sell the mining tenement.
- (3) In this section—
- relevant publication*, for a mining tenement, means—
- (a) the gazette; and
 - (b) a newspaper circulated in the local government area in which the land to which the mining tenement applies is located.

91 Additional information required from mortgagee exercising power of sale

- (1) This section applies to a mortgagee who—
- (a) exercises a power of sale for a mining tenement; and
 - (b) applies under the Act for a transfer of the mining tenement.
- (2) The mortgagee must ensure the application is accompanied by—
- (a) a notice in the approved form stating the mortgagee has exercised a power of sale over the mining tenement; and
 - (b) the mortgage under which the power of sale was exercised; and
 - (c) a copy of the notices mentioned in section 90(1)(b) and (2); and
 - (d) the authorising document for the mining tenement.

Part 4 Additional information and lodgement requirements

92 Application for duplicate authorising document

An application under section 389 of the Act for the issue of a duplicate of the authorising document for a mining tenement must be accompanied by a statutory declaration by the holder of the tenement stating how the holder lost the original authorising document.

93 Plan of survey must be lodged

- (1) This section applies if the Minister has, under section 407 of the Act, asked the applicant for a grant of, or the holder of, a mining tenement to have the land to which the application relates or the tenement applies, surveyed or further surveyed.
- (2) The plan of the survey must be lodged with the chief executive.
- (3) If the survey does not meet the requirements of the Act, the chief executive may do either or both of the following—
 - (a) ask the applicant or holder to provide, within a stated period, further information about the survey;
 - (b) not accept the survey plan.

Example of a survey not meeting the requirements of the Act—

In contravention of section 408(1) of the Act, a survey is carried out by a surveyor who has a share in the relevant tenure.

- (4) In this section—

mining tenement means a mining claim, exploration permit, mineral development licence or mining lease.

94 Prescribed way for making applications etc.—Act, s 386O

- (1) Subject to sections 28(2) and (3) and 95, for section 386O(2)(b) of the Act, the prescribed way for doing any of the

[s 95]

following is electronically, using the online system on the department's website—

- (a) the making of an application;
 - (b) the giving of a document to the Minister or chief executive;
 - (c) the filing, forwarding or lodging of a document;
 - (d) the making of a submission.
- (2) Also, the chief executive may, by notice given to the person making, giving, filing, forwarding or lodging a document mentioned in subsection (1), require the person to lodge a hard copy of the document at the place required under section 386O(2)(a) of the Act.
- (3) A document mentioned in subsection (1) that is lodged electronically between 4.30p.m. on a working day and 8.30a.m. on the next working day (the *later day*) is taken to have been lodged at 8.30a.m. on the later day.

95 Lodgement of royalty documents

- (1) This section applies if a person is required, under chapter 11 of the Act or chapter 3 of this regulation, to give a document (the *royalty document*) to, or lodge it with, the Minister.
- (2) The person must lodge or give the royalty document at the office of the chief executive.

Part 5 Small scale mining code

96 Small scale mining code—Act, s 391C

For section 391C(1) of the Act, the small scale mining code consists of parts 2, 3 and 4 of the document called 'Small

Scale Mining Code', dated March 2013 and published by the department.

Editor's note—

The document called 'Small Scale Mining Code' dated March 2013 may be inspected, free of charge—

- (a) on the department's website at <www.dnrm.qld.gov.au>; or
- (b) during the hours prescribed, under section 100, for the conduct of business at one of the department's mines lodgement offices listed on the department's website.

Part 6 Mining tenements

97 Particular applications can not be accepted

- (1) A document (the *document*) purporting to be an application for a mining tenement can not be accepted as an application if—
 - (a) the person stated in the document as the applicant for the mining tenement is not an eligible person; or
 - (b) the land, stated in the document as the land for which the application is made, is unavailable land for the mining tenement for which the application is made; or
 - (c) the document is not in the approved form for an application for the mining tenement; or

Note—

See, however, the *Acts Interpretation Act 1954*, section 49.

- (d) the person has not paid the prescribed fee for the application.
- (2) If, under subsection (1), the document can not be accepted as an application for a mining tenement, the chief executive must keep a copy of the document and give the person lodging it a notice stating—

[s 98]

- (a) that the document has not been accepted as an application for the mining tenement; and
 - (b) the reason the document has not been accepted.
- (3) In this section—

unavailable land, for a mining tenement, means land over which the mining tenement can not be granted under the Act.

Examples of land over which a mining tenement can not be granted—

- 1 land to which an existing mining tenement applies if the holder of the existing mining tenement is not the applicant or has not given the applicant written consent to apply for a mining tenement over the land
- 2 land that is part of a restricted area if the mining tenement is a prohibited mining tenement for the restricted area
- 3 land that is part of a protected area
- 4 land that has been excluded from the application of the Act by a law of the Commonwealth

98 Rental payable

- (1) The rental payable under the Act, for a year, for a mining tenement is stated in schedule 4.

Note—

See also the Act, sections 95, 138, 193 and 290.

- (2) However, for a mineral development licence that relates to more than 1000ha, the rental payable on each hectare must be worked out at the following rate—
- (a) for the first 1000ha—at the rate mentioned in schedule 4;
 - (b) for the next 1000ha—at 40% of the rate mentioned in schedule 4;
 - (c) for the next 3000ha—at 25% of the rate mentioned in schedule 4;
 - (d) for the next 10000ha—at 5% of the rate mentioned in schedule 4;

-
- (e) for each additional hectare—at 1% of the rate mentioned in schedule 4.
- (3) In this section—
year means—
- (a) for an exploration permit—a period of 1 year starting, in each year, on the day the exploration permit was granted; or
- (b) for another mining tenement—a rental year.

Part 7 **Other miscellaneous provisions**

99 **Time of lodgement to be noted**

If an application under the Act is lodged with the chief executive and complies with the requirements under the Act for the application, the chief executive must endorse the application with the day and time it was lodged.

100 **Prescribed hours of business**

The hours prescribed for the conduct of business for an office of the chief executive are between 8.30a.m. and 4.30p.m. on each business day.

101 **Fees**

The fees payable under the Act are stated in schedule 5.

Part 8 **Repeal**

102 Repeal

The Mineral Resources Regulation 2003, SL No. 174 is repealed.

Part 9 **Transitional provisions for Mineral Resources Regulation 2013**

103 Definitions for pt 9

In this part—

commencement means the commencement of this section.

former, in relation to a provision, means a provision of the repealed regulation.

repealed regulation means the Mineral Resources Regulation 2003, SL No. 174 as in force immediately before its repeal.

104 Period to which royalty return must relate

- (1) This section applies to a person who was, immediately before the commencement, required under former section 27 to lodge royalty returns relating to either—
 - (a) a period of 1 year starting on 1 July; or
 - (b) a quarter as decided by the Minister under former section 27(1)(b).
- (2) Despite section 35, the person must lodge royalty returns relating to the period mentioned in subsection (1)(a) or (b).

-
- (3) However, the Minister may at any time on or after the commencement decide that—
 - (a) this section no longer applies to the person; and
 - (b) the person must lodge royalty returns under section 35.
 - (4) The Minister must give the person a notice of the Minister's decision under subsection (3).
 - (5) The notice must state the day (the *stated day*) on which the decision takes effect.
 - (6) The stated day must not be a day earlier than the day the Minister gives the person the notice.

105 Minerals sold, disposed of or used before commencement

Former part 9 continues to apply, despite its repeal, for working out the gross value of minerals sold, disposed of or used before the commencement.

106 Existing application for gross value royalty decision

- (1) This section applies if—
 - (a) an application for a gross value royalty decision for a mineral was made under former section 43C or 43D; and
 - (b) the application related to an amount of the mineral to be sold, disposed of or used on or after the commencement; and
 - (c) at the commencement, the application has not been decided.
- (2) For mineral to be sold, disposed of or used on or after the commencement, the application is taken to have been made under section 60.

[s 107]

107 Existing gross value royalty decisions

- (1) This section applies if—
 - (a) a gross value royalty decision (the *pre-commencement decision*) was made for a mineral before the commencement; and
 - (b) the decision related to mineral to be sold, disposed of or used on or after the commencement.
- (2) For mineral sold, disposed of or used on or after the commencement, the pre-commencement decision is taken to be a gross value royalty decision made for the mineral under section 63.
- (3) For subsection (2), the notice given for the decision under former section 43F(3) is taken to be a notice given under 63(5).

108 Minister may do particular things

The Minister may do any act or thing the chief executive was, before the commencement, required to do under former part 9 in relation to a right, privilege or liability acquired, accrued or incurred by a person under the former part 9 before the commencement.

Example—

On the day before the commencement, the chief executive made an assessment under former section 44 as a result of which a person was entitled to receive a refund under former section 45. Former section 45 was repealed before the refund could be processed. The Minister may give the refund after the commencement.

109 Threshold exemption for relevant minerals

For working out the threshold exemption that applied for a relevant mineral under former section 34, and that applies for a relevant mineral under section 50, the total threshold exemption that applies for the financial year that commenced on 1 July 2013 is \$100000.

110 References to provisions of repealed regulation

A reference in a document to a particular provision (the *former provision*) of the repealed regulation may, to the extent necessary and if the context permits, be taken as a reference to a provision of this regulation all or part of which corresponds, or substantially corresponds, to the former provision.

Example—

A reference in a document to former section 13D or 14D is taken to be a reference to section 17 of this regulation.

Schedule 1 Conditions

sections 4, 8(1), 11,12 and 22

- 1 The holder, or another person acting under the authority, of a mining tenement must use, if practicable, only existing roads or tracks on the land to which the tenement applies.
- 2 The holder, or another person acting under the authority, of a mining tenement must take reasonable steps to ensure no reproductive material of a declared plant is moved onto, within or from the land to which the tenement applies.
- 3 The holder, or another person acting under the authority, of a mining tenement must not allow an animal in the custody of the holder or person to be on the land to which the tenement applies unless—
 - (a) the land is fenced in a way to prevent the animal from leaving it; or
 - (b) the animal is restrained.
- 4 The holder, or another person acting under the authority, of a mining tenement must not discharge a firearm on the land to which the tenement applies, unless—
 - (a) the holder of the tenement has obtained the written consent of the owner of the land; and
 - (b) the consent has been lodged with the chief executive.
- 5 The holder, or another person acting under the authority, of a mining tenement must not light an open fire on the land to which the tenement applies, unless—
 - (a) the holder of the tenement has obtained the written consent of the owner of the land; and
 - (b) the consent has been lodged with the chief executive.
- 6 The holder, or another person acting under the authority, of a mining tenement must not access the land to which the tenement applies other than at a point designated by the chief executive, unless—

- (a) the holder of the tenement has obtained the written consent of the owner of the land; and
- (b) the consent has been lodged with the chief executive.

Schedule 2 Prescribed area for mining claim land

section 7

Part 1 Emerald mining district

- 1 Rubyvale designated fossicking land—900m²
- 2 Sapphire designated fossicking land—900m²
- 3 Reward designated fossicking land—900m²
- 4 Divide designated fossicking land—900m²
- 5 Willows designated fossicking land—900m²
- 6 land within the boundaries of designated fossicking land mentioned in items 1 to 5, but not part of the designated fossicking land—900m²

Part 2 Georgetown mining district

- 1 land in restricted area 26 within the boundaries shown on plan no. 31028—900m²

Part 3 Quilpie mining district

- 1 land in restricted area 25 within the boundaries shown on plan no. 30953—900m²

Editor's note—

Including land within the boundaries shown on plan no. 30692.

- 2 land in restricted area 296 within the boundaries shown on plan no. 36673—900m²
- 3 land in restricted area 297 within the boundaries shown on plan no. 36673—900m²

Part 4 Winton mining district

- 1 land in restricted area 77 within the boundaries shown on plan no. 30955—900m²

Schedule 3 Royalty payable for minerals

sections 46, 47 and 48

Part 1 Royalty rates for prescribed minerals

1 Definitions for pt 1

In this part—

average market price, for a prescribed mineral, means the average for a return period of the following price, converted to Australian dollars at the hedge settlement rate for each day of the return period—

- (a) for cobalt, copper, lead, nickel or zinc—the spot price quoted on the London Metal Exchange;
- (b) for gold—the p.m. fix price quoted on the London Bullion Market;
- (c) for silver—the fix price quoted on the London Bullion Market.

reference price 1, for a prescribed mineral, means—

- (a) for cobalt—\$55115 for each tonne; or
- (b) for copper—\$3600 for each tonne; or
- (c) for gold—\$600 for each troy ounce; or
- (d) for lead—\$1100 for each tonne; or
- (e) for nickel—\$12500 for each tonne; or
- (f) for silver—\$9 for each troy ounce; or
- (g) for zinc—\$1900 for each tonne.

reference price 2, for a prescribed mineral, means—

- (a) for cobalt—\$83775 for each tonne; or
- (b) for copper—\$9200 for each tonne; or

- (c) for gold—\$890 for each troy ounce; or
- (d) for lead—\$2500 for each tonne; or
- (e) for nickel—\$38100 for each tonne; or
- (f) for silver—\$16.50 for each troy ounce; or
- (g) for zinc—\$4400 for each tonne.

2 Royalty rate for prescribed mineral

- (1) The royalty rate for a prescribed mineral is—
 - (a) if the average market price for the mineral is equal to or lower than reference price 1 for the mineral—2.5% of the value of the prescribed mineral; or
 - (b) if the average market price for the mineral is higher than reference price 1 for the mineral but lower than reference price 2 for the mineral—the prescribed percentage of the value of the prescribed mineral; or
 - (c) if the average market price for the mineral is equal to or higher than reference price 2 for the mineral—5% of the value of the prescribed mineral.

- (2) In this section—

prescribed percentage means the amount, expressed as a percentage, rounded down to the nearest increment of 0.02%, worked out by using the following formula—

$$PP = 2.5 + \left(\frac{PD}{RFD} \times 2.5 \right)$$

where—

PP is the prescribed percentage.

PD is the difference between the average market price and reference price 1 for the prescribed mineral.

RFD is the difference between reference price 2 and reference price 1 for the prescribed mineral.

Example—

If, for a return period, the average market price for copper is \$8300 for each tonne of copper, the royalty rate for copper for the return period must be worked out under subsection (1)(b), given the average market price is higher than reference price 1 for copper (\$3600) but lower than reference price 2 for copper (\$9200). The royalty rate would be 4.58%, being the amount (4.598214%) worked out by using the formula in subsection (2), definition *prescribed percentage*, rounded down to the nearest increment of 0.02%.

Part 2 Royalty rates for minerals other than prescribed minerals

3 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 Feldspar	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

4 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—
 - (A) 75% of the amount per tonne of the rate calculated under paragraph (a)(i), rounded down to 2 decimal places;
 - (B) \$1.50 per tonne of bauxite; or
 - (ii) otherwise—\$1.50 per tonne of bauxite.

5 Coal

(1) The royalty rate for coal is—

- (a) if the average price per tonne of the coal sold, disposed of or used in the return period is \$100 or less—7% of the value of the coal; or

(b) the royalty rate applied to the value of the coal sold, disposed of or used in the return period, rounded down to 2 decimal places, worked out using the following formula—

(i) if the average price per tonne of the coal sold, disposed of or used in the return period is more than \$100 but not more than \$150—

$$RR = 7 + \left(\frac{(AP - 100)}{AP} \times 5.5 \right)$$

(ii) if the average price per tonne of the coal sold, disposed of or used in the return period is \$150 or more—

$$RR = 7 + \left(\frac{(AP - 100)}{AP} \times 5.5 \right) + \left(\frac{(AP - 150)}{AP} \times 2.5 \right)$$

where—

RR is the royalty rate, expressed as a percentage.

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

6 Corundum, gemstones and other precious stones

The royalty rate for corundum, gemstones or other precious stones is 2.5% of the value of the corundum, gemstones or precious stones.

7 Coal seam gas

The royalty rate for coal seam gas is the rate applying to petroleum under the Petroleum and Gas (Production and Safety) Act, section 590.

8 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.

9 Mineral sands

(1) The royalty rate for a concentrate of a mineral sand is 5% of the value of the concentrate.

(2) In this section—

mineral sand includes the following—

- (a) anatase;
- (b) ilmenite;
- (c) leucoxene;
- (d) monazite;
- (e) rutile;
- (f) zircon.

10 Phosphate rock

(1) The royalty rate for phosphate rock is the higher of the following—

- (a) 80 cents for each tonne of phosphate rock;

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

$$R = \$1 \times \frac{G}{32.3} \times \frac{P_{curr}}{\$72.50}$$

where—

R is the royalty rate.

G is the average P₂O₅ content of the phosphate rock for the return period.

P_{curr} is the average price for the return period, converted to Australian dollars at the average hedge settlement rate for the return period, of Moroccan phosphate rock with 32.3% P₂O₅ content.

Example for subsection (1)—

For a return period—

- the average P₂O₅ content of phosphate rock is 24%, so that G is 24
- the average price of Moroccan phosphate rock with 32.3% P₂O₅ content is US\$175
- the average hedge settlement rate is 90c.

The rate under subsection (1)(b), by applying the formula, is \$1.99. Therefore, the royalty rate is \$1.99 for each tonne of the phosphate rock.

- (2) In this section—

average hedge settlement rate, for a return period, means the average, worked out for the return period, of the hedge settlement rates for each day in the return period.

average price for the return period, of Moroccan phosphate rock, means the average of the benchmark prices per tonne of Moroccan phosphate rock with 32.3% P₂O₅ content published in the magazine called *Fertilizer Week* for the return period.

Note—

Fertilizer Week is available online at www.crugroup.com/market-analysis/products/fertilizerweek.

11 Processed oil shale

- (1) The royalty rate for the oil processed from oil shale is the lesser of the following—
- 10% of the value of the oil processed from the oil shale;
 - the WTI%, rounded down to 2 decimal places, of the value of the oil processed from the oil shale.
- (2) For subsection (1)(b), the WTI% must be worked out using the following formula—

$$\text{WTI}\% = \left(\left[\frac{\text{CPI}_{\text{BASE}}}{\text{CPI}_{\text{NOW}}} \times \text{WTI} \right]^2 \div 1000 \right) + 0.5$$

where—

CPI_{BASE} is 61.2.

CPI_{NOW} is the CPI for the calendar quarter for which the royalty for oil shale is being worked out.

WTI is the average crude oil price.

- (3) In this section—

average crude oil price means the last daily ‘West Texas Intermediate Cushing Crude Oil’ price—

- converted to Australian dollars at the hedge settlement rate for each day of trading in the calendar quarter for which the royalty payable for oil shale is being worked out; and
- averaged over the calendar quarter for which the royalty payable for oil shale is being worked out.

CPI means the ‘Consumer Price Index: All Groups Index Numbers—Weighted Average of 8 Capital Cities’ published by the Australian Bureau of Statistics.

Example for subsection (1)—

For a calendar quarter—

- the CPI is 102.8; and
- the WTI is \$A105.

The WTI%, worked out using the formula in subsection (2), is 4.40%. Therefore, the royalty rate for the oil processed from the oil shale would be 4.40% of the oil's value.

12 Iron ore

- (1) The royalty rate for iron ore is—
- (a) if the average price for each tonne of iron ore is \$100 or less—\$1.25 for each tonne; or
 - (b) if the average price for each tonne of iron ore is more than \$100—the following percentage of the value of the iron ore, whichever is the higher—
 - (i) 1.25%;
 - (ii) the amount, expressed as a percentage, worked out using the following formula, rounded down to the nearest increment of 0.02%—

$$P = 1.25 + \left(\frac{A - 100}{A} \times 1.25 \right)$$

where—

P is the percentage.

A is the average price for each tonne of the iron ore.

- (2) In this section—

average price for each tonne, of iron ore, means the average price for each tonne of the iron ore sold, disposed of or used in the return period.

13 Other minerals

The royalty rate for a mineral for which a royalty rate is not otherwise stated in this schedule is 2.5% of the value of the mineral.

Schedule 4 Rental payable

section 98

	\$
1 For a mining claim	nil
2 For an exploration permit—for each sub-block to which the exploration permit applies	135.90
3 For a mineral development licence—for each hectare to which the development licence relates—	
(a) for the first year of the licence	3.85
(b) for the second year of the licence	7.85
(c) for the third year of the licence	11.95
(d) for the fourth year of the licence	20.55
(e) for a year of the licence after the fourth year	24.70
4 For a mining lease—for each hectare to which the mining lease relates	52.50

Schedule 5 Fees

section 101

Part 1 Prospecting permits

	\$
1 Application for district prospecting permit—for each month (Act, s 21)	110.30
2 Application for parcel prospecting permit (Act, s 21)	110.30

Part 2 Mining claims

	\$
1 Application for grant of mining claim (Act, s 61)	330.90
2 Application for renewal of mining claim (Act, s 93)	330.90
3 Application for approval to mine minerals not specified in mining claim (Act, s 105)	44.05
4 Lodging notice of surrender of mining claim (Act, s 107)	44.05
5 Application for variation of the land used or proposed to be used as access in relation to land the subject of mining claim (Act, s 125)	44.05
6 Registration of a dealing with a mining tenement that is a mining claim, other than an assessable transfer (Act, s 318AAT(3))	42.15
7 Application for indicative approval of an assessable transfer of a mining tenement that is a mining claim (Act, s 318AAV(2)(c)(ii))	42.15
8 Application for approval of an assessable transfer of a mining tenement that is a mining claim (Act, s 318AAW(2)(c)(iv))	42.15

	\$
9 Registration of an associated agreement for a mining tenement that is a mining claim (Act, s 318AAZC(3))	42.15
10 Lodging caveat in relation to a mining tenement that is a mining claim (Act, s 318AAZF(1)(h))	112.80

Part 3 Exploration permits

	\$
1 Application for exploration permit (Act, s 133)—	
(a) for coal	1 103.00
(b) for any mineral other than coal—	
(i) for 4 or fewer sub-blocks in restricted area 256, 257, 258, 259, 260, 261, 262, 263, 264 or 265 . .	275.80
(ii) otherwise	826.00
2 Application for renewal of exploration permit (Act, s 147)—	
(a) for coal	551.00
(b) for any mineral other than coal—	
(i) for 4 or fewer sub-blocks in restricted area 256, 257, 258, 259, 260, 261, 262, 263, 264 or 265 . .	165.40
(ii) otherwise	551.00
3 Registration of a dealing with a mining tenement that is an exploration permit, other than an assessable transfer (Act, s 318AAT(3))—	
(a) if the dealing is a change to the exploration permit holder's name	42.15
(b) otherwise	112.80
4 Application for indicative approval of an assessable transfer of a mining tenement that is an exploration permit (Act, s 318AAV(2)(c)(ii))—	
(a) if the permit is for coal	316.20

Schedule 5

	\$
(b) if the permit is for any mineral other than coal and is for 4 or fewer sub-blocks in restricted area 256, 257, 258, 259, 260, 261, 262, 263, 264 or 265	79.10
(c) otherwise	237.30
5 Application for approval of an assessable transfer of a mining tenement that is an exploration permit (Act, s 318AAW(2)(c)(iv))—	
(a) if the Minister has given an indicative approval of the transfer	150.00
(b) otherwise—	
(i) if the permit is for coal	466.20
(ii) if the permit is for any mineral other than coal and is for 4 or fewer sub-blocks in restricted area 256, 257, 258, 259, 260, 261, 262, 263, 264 or 265	229.10
(iii) for any other mineral.	387.30
6 Registration of an associated agreement for a mining tenement that is an exploration permit (Act, s 318AAZC(3))	42.15
7 Lodging caveat in relation to a mining tenement that is an exploration permit (Act, s 318AAZF(1)(h))	112.80

Part 4 Mineral development licences

	\$
1 Application for grant of mineral development licence (Act, s 183)—	
(a) for coal	2 206.00
(b) for any mineral other than coal	2 206.00
2 Application for renewal of mineral development licence (Act, s 197)—	
(a) for coal	772.00
(b) for any mineral other than coal	772.00

	\$
3 Adding another mineral to mineral development licence (Act, s 208)	551.00
4 Lodging notice of surrender of mineral development licence (Act, s 210)	165.40
5 Application for variation of the land used or proposed to be used as access in relation to land the subject of mineral development licence (Act, s 231)	386.10
6 Registration of a dealing with a mining tenement that is a mineral development licence, other than an assessable transfer (Act, s 318AAT(3))—	
(a) if the dealing is a change to the mineral development licence holder’s name	42.15
(b) otherwise	112.80
7 Application for indicative approval of an assessable transfer of a mining tenement that is a mineral development licence (Act, s 318AAV(2)(c)(ii))	632.70
8 Application for approval of an assessable transfer of a mining tenement that is a mineral development licence (Act, s 318AAW(2)(c)(iv))—	
(a) if the Minister has given an indicative approval of the transfer	150.00
(b) otherwise	782.70
9 Registration of an associated agreement for a mining tenement that is a mineral development licence (Act, s 318AAZC(3))	42.15
10 Lodging caveat in relation to a mining tenement that is a mineral development licence (Act, s 318AAZF(1)(h))	112.80

Part 5 Mining leases

	\$
1 Obtaining copy of mining lease application (s 20(2))	44.05
2 Application for grant of mining lease (Act, s 245)—	
(a) for coal	3 861.00

Schedule 5

	\$
(b) for corundum, gemstones and other precious stones . . .	689.00
(c) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	689.00
(d) for any other mineral	1 378.00
3 Application for renewal of mining lease (Act, s 286)—	
(a) for coal	3 861.00
(b) for corundum, gemstones and other precious stones . . .	689.00
(c) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	689.00
(d) for any other mineral	1 378.00
4 Application for approval to mine specified minerals not specified in mining lease (Act, s 298(2)).	551.00
5 Application to add a purpose (other than mining of minerals) to mining lease granted for purposes other than the mining of minerals (Act, s 298(5))	551.00
6 Application to add a purpose to mining lease granted for mining of minerals (Act, s 298(7))	551.00
7 Application for consolidation of mining leases (Act, s 299(2)).	551.00
8 Lodging notice of surrender of mining lease (Act, s 309(2)(c)).	165.40
9 Application for variation of the land used or proposed to be used as access in relation to land the subject of mining lease (Act, s 317(2)(b))	386.10
10 Registration of a dealing with a mining tenement that is a mining lease, other than an assessable transfer (Act, s 318AAT(3))—	
(a) if the dealing is a change to the lease holder’s name . . .	42.15
(b) otherwise	112.80
11 Application for indicative approval of an application transfer (Act, s 318AAV(2)(c)(ii))—	
(a) for coal	1 107.30
(b) for corundum, gemstones and other precious stones . . .	193.15
(c) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	193.15
(d) for any other mineral	386.25

	\$
12 Application for indicative approval of an assessable transfer of a mining tenement that is a mining lease (Act, s 318AAV(2)(c)(ii))—	
(a) for coal	1 107.30
(b) for corundum, gemstones and other precious stones . .	193.15
(c) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	193.15
(d) for any other mineral	386.25
13 Application for approval of an application transfer (Act, s 318AAW(2)(c)(iv))—	
(a) if the Minister has given an indicative approval of the transfer	150.00
(b) otherwise—	
(i) for coal	1 257.30
(ii) for corundum, gemstones and other precious stones	343.15
(iii) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	343.15
(iv) for any other mineral	536.25
14 Application for approval of an assessable transfer of a mining lease (Act, s 318AAW(2)(c)(iv))—	
(a) if the Minister has given an indicative approval of the transfer	150.00
(b) otherwise—	
(i) for coal	1257.30
(ii) for corundum, gemstones and other precious stones	343.15
(iii) for elluvial, colluvial and alluvial gold and elluvial, colluvial and alluvial tin	343.15
(iv) for any other mineral	536.25
15 Registration of an associated agreement of a mining tenement that is a mining lease (Act, s 318AAZC(3))	42.15
16 Lodging caveat in relation to a mining tenement that is a mining lease or an application for a mining lease (Act, s 318AAZF(1)(h))	112.80

Part 6 Fees relating to chapter 8 of the Act

		\$
1	Application for amendment of relinquishment condition (Act, s 318DC(g))	1 103.00
2	Application to consolidate coal mining leases or oil shale mining leases (Act, s 318DM(2)(b))	1 103.00
3	Proposed later development plan lodged within the time required under section 318EB(3) of the Act (Act, s 318EB(6))	1 103.00
4	Lodging proposed initial development plan (Act, s 758(2)(b)).	1 103.00

Part 7 Royalty returns

		\$
1	Lodging royalty return after the day mentioned in section 36(2), (3) or (5).	164.55
2	Lodging royalty return after the day mentioned in section 37(2).	164.55

Part 8 Register

		\$
	If a public counter is used to search and take extracts from, or obtain a copy of all or part of a notice, document or information in, the register (Act, s 387A(1)(b) and (c))—	
	(a) for a standard departmental public tenure enquiry report	44.05
	(b) otherwise	44.05

Part 9 Other fees

	\$
Issue of a duplicate of mining tenement (Act, s 389)—	
(a) for a prospecting permit	44.05
(b) for a mining claim	44.05
(c) for an exploration permit	44.05
(d) for a mineral development licence	44.05
(e) for a mining lease	44.05

Schedule 6 Dictionary

section 3

adjacent petroleum lease, for chapter 2, part 4, division 4, see section 23.

affected land means land to which—

- (a) a mining claim, mineral development licence or mining lease applies; or
- (b) an application for a mining claim, mineral development licence or mining lease relates.

authorising document, for a mining tenement, means—

- (a) for a prospecting permit—the permit; or
- (b) for a mining claim—the certificate of grant of the mining claim issued under the Act, and includes a replacement certificate of grant of the mining claim; or
- (c) for an exploration permit or mineral development licence—the instrument of the exploration permit or mineral development licence; or
- (d) for a mining lease—
 - (i) the instrument of the mining lease; or
 - (ii) if an instrument has not been issued for the mining lease—a letter given by the chief executive to the holder of the lease stating that the Minister has granted the holder the mining lease.

average listed price, for chapter 3, part 5, see section 56.

block identification map means a map that forms part of the series of maps known as the ‘Block Identification Map—Series B’ held by the department.

Editor’s note—

A copy of each map in the series may be inspected, free of charge, during the hours prescribed, under section 100, for the conduct of

business at the department's Geological Survey of Queensland sales centre at level 10, 119 Charlotte Street, Brisbane.

calendar quarter means each of the following 3-month periods in a year—

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September;
- (d) 1 October to 31 December.

chief inspector of coal mines, for chapter 2, part 4, division 4, see section 23.

civil penalty see section 77(2).

coal mine, for chapter 2, part 4, division 4, see section 23.

coal mining operations, for chapter 2, part 4, division 4, see section 23.

commencement, for chapter 4, part 9, see section 103.

declared plant means a plant that is—

- (a) a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*; or
- (b) declared, under a local law of a local government, to be a pest.

designated fossicking land means land declared to be designated fossicking land under the *Fossicking Act 1994*, section 42.

earlier return period, for chapter 3, part 5, see section 56.

former, for chapter 4, part 9, see section 103.

gross value, for chapter 3, part 5, see section 56.

gross value royalty decision, for chapter 3, part 5, see section 56.

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

holder, for chapter 3, see section 32.

instrument, in relation to an exploration permit, mineral development licence, or mining lease, means an instrument of the exploration permit, mineral development licence or mining lease, issued under the Act, and includes a replacement instrument.

listed price, for chapter 3, part 5, see section 56.

market value mineral, for chapter 3, part 5, see section 56.

mining authority means a mining claim, mining lease or other authority under the Act or an authority under another Act relating to mining.

mining operation, for chapter 3, see section 32.

mining tenement for chapter 4, part 3, see section 89.

native title holder see the Commonwealth Native Title Act, section 224.

notice means written notice.

overlapping petroleum lease, for chapter 2, part 4, division 4, see section 23.

petroleum lease for chapter 2, part 4, division 4, see section 23.

prescribed mineral means any of the following—

- (a) cobalt;
- (b) copper;
- (c) gold;
- (d) lead;
- (e) nickel;
- (f) silver;
- (g) zinc.

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

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

rare earth means each of the following—

- (a) cerium;
- (b) dysprosium;
- (c) erbium;
- (d) europium;
- (e) gadolinium;
- (f) holmium;
- (g) lanthanum;
- (h) lutetium;
- (i) neodymium;
- (j) praseodymium;
- (k) promethium;
- (l) samarium;
- (m) scandium;
- (n) terbium;
- (o) thulium;
- (p) ytterbium;
- (q) yttrium.

reasonable means reasonable in all the circumstances.

recognised listing, for chapter 3, part 5, see section 56.

relevant entity, for chapter 3, part 5, see section 56.

relevant mining lease, for chapter 2, part 4, division 4, see section 23.

relevant mining operations, for chapter 2, part 4, division 4, see section 23.

repealed regulation, for chapter 4, part 9, see section 103.

reporting period, for an exploration permit or a mineral development licence, means each 1-year period from the anniversary of the day the permit or licence takes effect.

reproductive material, of a plant, see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

restricted area means an area of land stated to be a restricted area in a gazette notice made by the Minister.

return period means—

- (a) in relation to a royalty—the period for which the royalty is payable; or
- (b) in relation to a royalty return—the period to which the royalty return must relate.

Note—

For paragraph (b), see section 35.

royalty estimate notice see section 83(1).

standard departmental public tenure enquiry report means an extract from the register of particular information about a tenure administered under the Act, including, for example, details of the tenure holder and a description of the area of the tenure in blocks and sub-blocks.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	113
3 Key	114
4 Table of reprints	114
5 List of legislation	114
6 List of annotations	114

2 Date to which amendments incorporated

This is the reprint date mentioned in the *Reprints Act 1992*, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the *Mineral Resources Regulation 2013* may be made in accordance with this reprint under the *Reprints Act 1992*, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Current as at 1 September 2013	Amendments included none	Notes RA ss 7(1)(k), 40 and 44
-----------------------------------	-----------------------------	--------------------------------------

5 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note.

Mineral Resources Regulation 2013 SL No. 170

made by the Governor in Council on 29 August 2013

notfd gaz 30 August 2013 pp 1069–70

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2013 (see s 2)

[exp 1 September 2023](#) (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

6 List of annotations

PART 10—MINOR AND CONSEQUENTIAL AMENDMENTS

pt hdg om RA s 7(1)(k)

Division 1—Amendment of Coal Mining Safety and Health Regulation 2001

div 1 (ss 111–114) om RA s 7(1)(k), 40

Division 2—Amendment of Petroleum and Gas (Production and Safety) Regulation 2004

div 2 (ss 115–116) om RA s 7(1)(k), 40

© State of Queensland 2013
Authorised by the Parliamentary Counsel