

## Queensland



### Explanatory Notes for SL 2003 No. 174

#### *Mineral Resources Act 1989*

## MINERAL RESOURCES REGULATION 2003

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### GENERAL OUTLINE

#### **Short title**

*Mineral Resources Regulation 2003.*

#### **Authorising Law**

Sections 321 and 417 of the *Mineral Resources Act 1989*.

#### **Objectives of the regulation**

The *Mineral Resources Act 1989* is aimed at providing for the assessment, development and utilisation of mineral resources to the maximum extent practicable, consistent with sound economic and land use management.

The *Mineral Resources Regulation 1990* provides the administrative framework to achieve the objectives of the Act. This regulation has since been reviewed and is to be remade as the *Mineral Resources Regulation 2003*.

The remake of the regulation involves no changes to existing Government policy. As part of the remake, it has been revised to reflect current drafting practice, incorporate updated information and to make the regulation consistent with other legislative changes. These changes are discussed further in the Regulatory Impact Statement (RIS). The main amendments, which are of a housekeeping nature, are as follows:

- (a) Sections of the *Mineral Resources Act 1989* were deleted and renumbered following the enactment of the *Environmental Protection and Other Legislation Amendment Act 2000*. This new Regulation reflects the renumbered provisions of the *Mineral Resources Act 1989*;
- (b) Removing references to the Warden's Court. The *Land and Resources Tribunal Act 1999* abolished the Warden's Court. This new Regulation does not refer to the Warden's Court;
- (c) Correct an omission by prescribing a fee of \$14.55 for an application to add a mineral to a Mineral Development Licence. The *Mineral Resources Act 1989* provides for a holder of a Mineral Development Licence to add a mineral to the licence. The Act, in section 208(2), requires a fee, but none has been prescribed. The fee is consistent with the prescribed fee of \$14.55 to add a mineral to a Mining Lease;
- (d) Clarification of requirements for surveys. This new regulation reflects section 407 of the *Mineral Resources Act 1989* and clarifies the use of surveys to adjust the marking out of land which is the subject of an application for a mining tenement;
- (e) The requirements for the control of the spread of pests are made consistent with the requirements of the *Land Protection (Pest and Stock Route Management) Act 2002*, which commences on 1 July 2003;
- (f) Updating of the addresses where interested parties can search the registers for the various mining tenements maintained by the Department of Natural Resources and Mines;
- (g) Clarification of the provisions relating to the maintenance of mining tenement registers to more accurately reflect the provisions of the *Mineral Resources Act 1989*;
- (h) Incorporate nickel and cobalt into the royalty arrangements that currently apply to copper, gold, silver, lead and zinc. Details regarding the operation of these royalty arrangements are set out in the Regulatory Impact Statement (RIS);
- (i) Updating the royalty provisions in the regulation (Part 9 and Schedule 4) to reflect current drafting practice and incorporating greater detail regarding the determination of value for royalty purposes and the application of existing royalty concessions. As these matters are currently detailed in Departmental policy

statements and administrative guidelines, the proposed changes are consistent with existing Government policy and practice.

- (j) As part of item (i) above, allowing the \$30,000 royalty-free threshold for certain minerals to be claimed in full in the first quarter of a royalty year, rather than being claimed at the rate of \$7,500 for each quarter.

### **Reasons for the regulation**

The *Mineral Resources Regulation 1990* will expire on 31 August 2003. It is therefore necessary that a new *Mineral Resources Regulation 2003* be made before expiry of the existing regulation to ensure the continued effective administration of the *Mineral Resources Act 1989*.

Based on the outcomes of a separate review of the royalty arrangements applying to nickel and cobalt, the regulation will implement a price-responsive regime that incorporates a royalty discount for downstream processing for nickel and cobalt ore mined and processed within Queensland. Similar arrangements already apply to copper, lead and zinc. Details regarding the royalty arrangements to apply to nickel and cobalt are provided in the RIS.

### **How will the policy objectives be achieved?**

There are three options for dealing with the policy objectives. Namely:

**Option 1** Do nothing: This would result in the *Mineral Resources Regulation 1990* expiring on 1 September 2003 and there would be no effective framework for the administration of the *Mineral Resources Act 1989*. This option is not viable because of the potentially significant adverse financial implications for Queensland.

**Option 2** Remake the regulation with no changes: Under this option the regulation would be remade in its current form. This is a viable option. The Government would be able to continue to administer the development of the mining industry in Queensland and continue to collect mining royalties and rents (valued at about \$700m in 2002-03), as well as minor revenue from prescribed tenure fees.

**Option 3** Remake the regulation with minor amendments: This is the preferred option and current proposal. It has all the benefits

of Option 2, plus several minor amendments to improve the operation of the new regulation.

In addition, new royalty arrangements for nickel and cobalt would also be introduced.

The remade royalty provisions incorporating the new arrangements for nickel and cobalt royalties support the following specific policy objectives of the *Mineral Resources Act 1989*, to:

- Encourage and facilitate prospecting and exploring for and mining of minerals; and
- Ensure an appropriate financial return to the State from mining.

It is also Queensland Government policy to encourage downstream processing of minerals within Queensland.

The regulation would support these objectives by incorporating provisions to encourage downstream processing of nickel and cobalt ore mined in Queensland and providing flexibility in royalty rates in response to fluctuations in nickel and cobalt prices. These provisions are consistent with those already in place for copper, lead, and zinc, which have been in effect since 1 January 1996 and which have been well-accepted by industry.

### **Consistency with authorising law**

The regulation is consistent with the policy objectives of the *Mineral Resources Act 1989*.

### **Estimated cost of Government implementation**

There will be no administrative cost to Government regarding implementation of the regulation.

### **Consistency with fundamental legislative principles**

The proposed regulation is consistent with fundamental legislative principles.

## CONSULTATION

### Community

#### General

The following non-government organisations were consulted: the Queensland Mining Council, the Queensland Conservation Council, the Queensland Council of Unions, the Australian Workers Union, the Local Government Association of Queensland, the North Queensland Miners' Association, the Quilpie Boulder Opal Association, the Queensland Sapphire Producers Association and Agforce.

In addition, a Regulatory Impact Statement (RIS) was released for public consultation on the proposed remake of the *Mineral Resources Regulation 1990*. Notification of the RIS, and an invitation for comment, was published in the Queensland Government Gazette, the Courier Mail, the Koori Mail and the Australian Financial Review. A copy of the RIS was also posted on the Department of Natural Resources and Mines internet site. A copy of the RIS is attached.

No submissions were received.

#### Nickel and cobalt

In October 2000, a discussion paper proposing to make the arrangements for nickel and cobalt royalties consistent with those applying to copper, lead and zinc was released to industry for comment. Submissions in response to the discussion paper indicated support for the proposal.

Industry comment on various elements, including the proposed reference prices, thresholds and processing discounts, was taken into account in the development of the attached RIS.

The RIS was released to industry for comment on 25 October 2002, notification of which was posted in the Queensland Government Gazette and the Australian Financial Review. Copies of the RIS were also forwarded directly to the Queensland Mining Council, QNI Pty Ltd, and other participants in the nickel and cobalt exploration and production industry in Australia. A copy of the RIS was also posted on the Department of Natural Resources and Mines and the Department of State Development internet sites.

The two submissions received raised no objections to the proposal.

## **Government**

The Business Regulation Reform Unit of the Department of State Development advised that the RIS for the proposed regulation meets the basic minimum requirements of the *Statutory Instruments Act 1992*. The Business Regulation Reform Unit also was consulted during the course of finalising the nickel and cobalt RIS prior to release for comment.

Queensland Treasury advised that the proposed amendments are consistent with National Competition Policy principles.

The following agencies were also consulted: the Department of the Premier and Cabinet, the Department of Aboriginal and Torres Strait Islander Policy, the Office of Rural Communities, the Department of Employment and Training, the Department of Industrial Relations, the Department of Innovation and Information Economy, Sport and Recreation, the Department of Housing, the Department of Local Government and Planning, the Environmental Protection Agency, the Department of Justice and Attorney-General, the Department of Emergency Services, and the Department of State Development.

The Office of Queensland Parliamentary Counsel has drafted the regulation and advised during its preparation.

## **Results of consultation**

All parties consulted support the remake of the regulation and the proposed amendments.

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### ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Natural Resources and Mines.