

EXPLANATORY NOTES FOR SUBORDINATE LEGISLATION

Revenue Legislation Amendment Regulation (No. 2) 2014

Explanatory notes for SL 2014 No. 227

made under the

Petroleum and Gas (Production and Safety) Act 2004
Mineral Resources Act 1989

General Outline

Short title

Revenue Legislation Amendment Regulation (No. 2) 2014

Authorising law

Section 590 (2), 590 (3) and 859 (1) of the *Petroleum and Gas (Production and Safety) Act 2004*.

Section 320 (1), 417 (1) and 417 (2)(1) of the *Mineral Resources Act 1989*.

Policy objectives and the reasons for them

The policy objective of the Regulation is to amend various royalty laws administered by the Office of State Revenue. Although petroleum royalty is imposed under the *Petroleum and Gas (Production and Safety) Act 2004* and mineral royalty is imposed under the *Mineral Resources Act 1989*, the amendments to be made by the regulation relate to matters that are required to be prescribed by regulation.

The regulation therefore amends the *Petroleum and Gas (Production and Safety) Regulation 2004* to remove examples of operating costs in section 148(2)(d) and to clarify that use of petroleum produced by a petroleum producer is a disposal of the petroleum, for petroleum royalty purposes.

The regulation also amends the *Mineral Resources Regulation 2013* to implement a uranium royalty rate.

Operating costs

Petroleum royalty is payable by a petroleum producer at the rate of 10% of the wellhead value of the petroleum disposed of or produced by the petroleum producer. The wellhead value is generally the amount the petroleum could reasonably be expected to realise if it were sold commercially, less the sum of certain expenses.

The *Petroleum and Gas (Production and Safety) Regulation 2004* details the expenses which form a component for calculating the wellhead value of petroleum. In particular, section 148(2)(d) provides these expenses include certain operating costs and includes a number of examples.

Other expenses in relation to the operation of the site at which petroleum is produced can also be used in working out the wellhead value, provided it is approved by the Minister under section 148(2)(e). Accordingly, Ministerial Statement 68 “*Clarification of revenues and allowable deductions in establishing wellhead value*” sets out the relevant expenses for determining the wellhead value of petroleum.

The examples in section 148(2)(d) extend the classes of allowable deductions more broadly than current administrative practice. This creates uncertainty regarding the types of similar expenses that may or may not be allowable deductions.

Removal of the examples avoids this uncertainty. As the types of operating expenses which may be relevant for determining the wellhead value may change to reflect changes within industry, administrative guidelines are the most appropriate vehicle to provide a clear and up to date statement about the expenses that may be claimed when working out the wellhead value. Relevant examples of operating expenses will therefore be included in a royalty ruling issued by the Office of State Revenue to provide clarity and certainty for royalty payers.

Use of petroleum

The *Petroleum and Gas (Production and Safety) Act 2004* imposes petroleum royalty on a petroleum producer for any petroleum that the producer produces and a petroleum producer is liable for petroleum royalty when the petroleum producer uses petroleum that they have produced.

The *Petroleum and Gas (Production and Safety) Regulation 2004* prescribes when a petroleum producer is taken to have disposed of petroleum for the purpose of determining when and how petroleum royalty is payable.

Although a petroleum producer is liable for petroleum royalty when they use petroleum they have produced, the *Petroleum and Gas (Production and Safety) Regulation 2004* does not provide when the petroleum royalty is payable as the use of the petroleum is not an instance of when petroleum is taken to be disposed of.

The purpose of the amendment is to clarify that a petroleum producer has disposed of petroleum when the producer uses the petroleum.

Uranium royalty rate

Whilst mineral royalty is imposed under the *Mineral Resources Act 1989*, schedule 3 of the *Mineral Resources Regulation 2013* specifies the rates of royalty for various specified minerals mined in Queensland. Where there is no royalty rate specified for a specified mineral, the royalty rate is 2.5% of the value of the mineral.

The *Mineral Resources Regulation 2013* also includes provisions for calculating the value of a mineral, the application of a royalty free threshold and allowances for royalty to be paid on an adjustment basis for certain specified minerals.

The State Government recently approved the implementation of a new royalty rate for uranium, comprising five per cent of the value of the uranium mined, increasing to a higher rate of 10 per cent, where the 10 per cent rate applies only to that component of uranium sold for more than AU\$220 per kilogram. The *Mineral Resources Regulation 2013* requires amendment to give effect to the new uranium royalty rate.

Achievement of policy objectives

Operating costs

The objective will be achieved by amending the *Petroleum and Gas (Production and Safety) Regulation 2004* to remove the examples of operating expenses in section 148(2)(d). This will ensure there are no inconsistencies between those examples and the royalty ruling which will be issued to detail how section 148 of the *Petroleum and Gas (Production and Safety) Regulation 2004* is interpreted and administered in practice.

Use of petroleum

The Regulation will achieve its objective of clarifying that petroleum is disposed of when a petroleum producer uses petroleum they have produced by amending section 147(2) of the *Petroleum and Gas (Production and Safety) Regulation 2004*. As a result, the amendment will also clarify when petroleum royalty is payable for any petroleum used by a petroleum producer that a petroleum producer has produced.

Uranium royalty rate

The objective will be achieved by amending schedule 3 of the *Mineral Resources Regulation 2013* to include a royalty rate for uranium. Amendments will also be made to the *Mineral Resources Regulation 2013* related provisions to reflect the inclusion of a specified royalty rate for uranium.

Consistency with policy objectives of authorising law

Operating expenses

Use of petroleum

The amendments to the *Petroleum and Gas (Production and Safety) Regulation 2004* are consistent with the policy objectives of the *Petroleum and Gas (Production and Safety) Act 2004* which allows for prescription by regulation of a way to work out the value of petroleum for petroleum royalty and when the petroleum royalty is payable.

In the case of removal of the examples of operating expenses in section 148 (2)(d), this ensures there is no inconsistency or uncertainty regarding the Minister's practice for working out the wellhead value of petroleum having regard to operating expenses. Clarification that use of petroleum produced by a petroleum producer is a disposal of the petroleum provides certainty for petroleum producers as to when a royalty liability is payable for the petroleum used.

Uranium royalty rate

The amendment to the *Mineral Resources Regulation 2013* to include a royalty rate for uranium is also consistent with one of the policy objectives of the *Mineral Resources Act 1989* which allows for the royalty rates for minerals to be prescribed by regulation.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Implementation costs for each amendment are not expected to be significant.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

Operating expenses

Use of petroleum

The Office of Best Practice Regulation (OBPR), Queensland Competition Authority, was consulted regarding the need to prepare a Regulatory Impact Statement (RIS).

Due to the nature of the amendments, OBPR advised a RIS is not required as the amendments will not impose a significant adverse impact on the community, business or government.

Uranium royalty rate

OBPR was also consulted regarding the need to prepare a RIS for the uranium royalty rate and its related amendments.

As these amendments impose a royalty and do not relate to the administration of a royalty, OBPR advised the amendments are excluded from the RIS system.