



Queensland

*Petroleum and Gas (Production and Safety) Act 2004*

# **Petroleum and Gas (Royalty) Regulation 2021**

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Queensland

# Petroleum and Gas (Royalty) Regulation 2021

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# Petroleum and Gas (Royalty) Regulation 2021

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Petroleum and Gas (Royalty) Regulation 2021*.

### 2 Commencement

This regulation commences on 1 September 2021.

### 3 Dictionary

The dictionary in schedule 1 defines particular words used in this regulation.

## Part 2 Petroleum royalty

### Division 1 Preliminary

#### Subdivision 1 Purpose

### 4 Purpose of part

This part prescribes—

- (a) for section 590(2)(a) of the Act, the time on or before which petroleum royalty must be paid; and
- (b) for section 590(2)(b) of the Act, the way in which petroleum royalty is calculated; and
- (c) for section 590(2)(c) of the Act, the rate at which petroleum royalty is payable.

## Subdivision 2 Interpretation

### 5 Definitions for part

(1) In this part—

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

*domestic gas* see section 6.

*gas* means petroleum in a gaseous state at standard temperature and pressure.

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

*independent buyer*, in relation to a petroleum producer or a reseller for the producer, means a person who is not a relevant entity for the producer.

*liquid petroleum* see section 9.

*LNG* means liquefied natural gas.

*LNG project* means an LNG project under a determination of the revenue commissioner under section 10.

*LNG project buyer*, in relation to a petroleum producer or a reseller for the producer, means a person who the producer or reseller knows is a member of an LNG project because—

- (a) the person has, under section 12(2), given the producer or the reseller a notice stating that the person is a member of the LNG project; or
- (b) the revenue commissioner has, under section 12(4), told the producer or the reseller that the person is a member of the LNG project.

*member*, of an LNG project, means a member of an LNG project under a determination of the revenue commissioner under section 10.

*oil* means petroleum in a liquid state.

*project gas* see section 8.

*standard temperature and pressure* means an absolute pressure of 101.325kPa at a temperature of 15°C.

*supply gas* see section 7.

- (2) To remove any doubt, it is declared that, for this part, a reference to a petroleum producer includes a participant in a joint venture, or other arrangement, involving the production of petroleum who is taken to be a petroleum producer under section 590(4) of the Act.

## 6 What is *domestic gas*

- (1) Petroleum produced by a petroleum producer in a royalty return period is *domestic gas* if—
- (a) the petroleum is gas; and
  - (b) during the royalty return period, the petroleum is—
    - (i) sold or otherwise transferred, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who is not an LNG project buyer; or
    - (ii) flared, used or vented; or
    - (iii) if the producer is not a member of an LNG project—stored by, or kept in the possession of, the producer or 1 or more resellers for the producer; and
  - (c) the petroleum is not supply gas.
- (2) In this section—
- use*, petroleum, does not include convert the petroleum into LNG.

## **7 What is *supply gas***

Petroleum produced by a petroleum producer in a royalty return period is *supply gas* if—

- (a) the petroleum is gas; and
- (b) the petroleum is not produced by the producer as a member of an LNG project; and
- (c) during the royalty return period, the petroleum is sold or otherwise transferred, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who is an LNG project buyer.

## **8 What is *project gas***

Petroleum produced by a petroleum producer in a royalty return period is *project gas* if—

- (a) the petroleum is gas; and
- (b) the petroleum is produced by the petroleum producer as a member of an LNG project; and
- (c) the petroleum is not domestic gas.

## **9 What is *liquid petroleum***

Petroleum produced by a petroleum producer in a royalty return period is *liquid petroleum* if the petroleum is oil.

## **Division 2 LNG projects**

### **10 Revenue commissioner may make determination that petroleum venture is LNG project**

- (1) This section applies if the revenue commissioner believes a petroleum venture exists between—
  - (a) 1 or more petroleum producers; and

- 
- (b) 1 or more other persons each of whom is a relevant entity for a petroleum producer mentioned in paragraph (a).
- (2) The revenue commissioner may make a determination that the petroleum venture is an LNG project.
- (3) If the revenue commissioner makes a determination under subsection (2), the revenue commissioner must also make a determination of who are the members of the LNG project.
- (4) The revenue commissioner must give each person who is a member of the LNG project notice of the determinations under subsections (2) and (3).
- (5) The notice must include the following information—
- (a) a description of the petroleum venture that constitutes the LNG project;
  - (b) the names of the members of the LNG project;
  - (c) the names of the petroleum producers who are members of the LNG project;
  - (d) the petroleum tenures under which petroleum is produced for the LNG project.
- (6) A determination under subsection (2) or (3) takes effect on the day stated in the notice.
- (7) The revenue commissioner may amend or revoke a determination made under subsection (2) or (3) by notice given to each person who is, or was before the amendment or revocation, a member of the LNG project.
- (8) An amendment or revocation under subsection (7) takes effect on the day stated in the notice.
- (9) For subsections (6) and (8), the day stated in the notice may be a day before the day on which the revenue commissioner makes, amends or revokes the determination.
- (10) In this section—
- petroleum venture*** means a joint venture or other arrangement involving—

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- (a) the production of gas for the purpose of converting the gas into LNG; and
- (b) the processing, transportation, storage, conversion, sale or purchase of the gas or LNG mentioned in paragraph (a).

## 11 Revenue commissioner must reassess amount of royalty payable if particular determinations made

- (1) This section applies if the revenue commissioner—
  - (a) has made, amended or revoked a determination under section 10 (each a *new decision*); and
  - (b) has made an assessment under the *Taxation Administration Act 2001* of the amount of petroleum royalty payable by a petroleum producer for a royalty return period without having regard to the new decision.
- (2) The revenue commissioner must reassess, under the *Taxation Administration Act 2001*, the amount of petroleum royalty payable by the petroleum producer for the royalty return period having regard to the new decision.

*Note—*

See the *Taxation Administration Act 2001*, part 4 for the revenue commissioner's obligation to refund any excess amount on the making of the reassessment.

- (3) Subsection (4) applies if, on the reassessment, the petroleum producer is liable for penalty tax, unpaid tax interest or a civil penalty (each a *relevant liability*).
- (4) The revenue commissioner must remit the relevant liability to the extent it is payable only because of the operation of subsection (2).

## 12 Notification of status when petroleum producer, or reseller for producer, sells to member of LNG project

- (1) This section applies if a person—
  - (a) is a member of an LNG project; and

- 
- (b) purchases gas from a petroleum producer, or a reseller for the producer, who is not a member of the LNG project mentioned in paragraph (a).
- (2) The person must, as soon as reasonably practicable after the purchase, give the petroleum producer, or the reseller for the producer, a notice stating that the person is a member of the LNG project.
- Maximum penalty—100 penalty units.
- (3) However, subsection (2) does not apply if the person has already given the petroleum producer, or the reseller for the producer, a notice stating that the person is a member of the LNG project.
- (4) The revenue commissioner may tell the petroleum producer, or the reseller for the producer, that the person is a member of the LNG project.

### **13 Notification of revenue commissioner when persons involved in petroleum venture change**

- (1) Subsection (2) applies if a person who is a member of an LNG project (the *departing member*) stops being involved in the petroleum venture that constitutes the LNG project.
- (2) Each petroleum producer who continues to be involved in the petroleum venture must, within 30 days after the departing member stops being involved in the venture, give the revenue commissioner a notice stating that the departing member has stopped being involved in the venture.
- Maximum penalty—100 penalty units.
- (3) Subsection (4) applies if a person (the *new participant*) starts being involved in a petroleum venture that constitutes an LNG project.
- (4) Each petroleum producer, including the new participant if the new participant is a petroleum producer, who is involved in the petroleum venture must, within 30 days after the new participant starts being involved in the venture, give the

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revenue commissioner a notice stating that the new participant has started being involved in the venture.

Maximum penalty—100 penalty units.

- (5) A petroleum producer may give a notice under subsection (2) or (4) jointly with another petroleum producer.
- (6) The revenue commissioner must, after receiving a notice under subsection (2) or (4), make a decision about whether to amend or revoke—
  - (a) the determination of the LNG project; or
  - (b) the determination of the members of the LNG project.

## **Division 3            Royalty rates**

### **Subdivision 1        Preliminary**

#### **14        Definitions for division**

In this division—

*relevant period*, for a royalty return period, means—

- (a) if the royalty return period is a calendar quarter—the 3-month period starting on the day that is 4 months immediately before the start of the royalty return period; or
- (b) if the royalty return period is a financial year—the 12-month period starting on the day that is 4 months immediately before the start of the royalty return period.

*volume*, of petroleum, means—

- (a) for domestic gas, supply gas, project gas, gas or LNG—the volume converted to gigajoules; or
- (b) for liquid petroleum or oil—the volume measured in barrels.



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## Subdivision 2 Domestic gas

### 15 Definitions for subdivision

In this subdivision—

*average sales price*, for domestic gas for a petroleum producer for a royalty return period, see sections 17 and 18.

*benchmark price*, for domestic gas for a royalty return period, means the firm End of Day Wallumbilla Benchmark Price averaged over the period.

### 16 Petroleum royalty for domestic gas

If petroleum produced by a petroleum producer in a royalty return period is domestic gas, the producer must pay petroleum royalty for the period on the volume of domestic gas produced in the period at the following rate—

- (a) if the average sales price for domestic gas for the producer for the period is not more than \$3 per gigajoule—0.02 cents per gigajoule for each 1 cent per gigajoule more than \$0 per gigajoule;
- (b) if the average sales price for domestic gas for the producer for the period is more than \$3, but not more than \$8, per gigajoule—6 cents per gigajoule plus 0.08 cents per gigajoule for each 1 cent per gigajoule more than \$3 per gigajoule;
- (c) if the average sales price for domestic gas for the producer for the period is more than \$8 per gigajoule—46 cents per gigajoule plus 0.10 cents per gigajoule for each 1 cent per gigajoule more than \$8 per gigajoule.

### 17 What is the *average sales price* for domestic gas

- (1) The *average sales price* for domestic gas for a petroleum producer for a royalty return period is worked out using the following formula—

$$ASP = \frac{AR + DS}{AV + DV}$$

where—

**ASP** is the average sales price.

**AR** is the total revenue from all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is not an LNG project buyer; and
- (b) is an independent buyer.

**AV** is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is not an LNG project buyer; and
- (b) is an independent buyer.

**DS** is the deemed sales value of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is not an LNG project buyer; and
- (b) is not an independent buyer.

**DV** is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is not an LNG project buyer; and
- (b) is not an independent buyer.

- (2) For subsection (1), the deemed sales value of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the

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producer, to a person who is not an LNG project buyer and is not an independent buyer is worked out using the following formula—

$$DS = BP \times DV$$

where—

*DS* is the deemed sales value.

*BP* is the benchmark price for domestic gas for the royalty return period.

*DV* is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is not an LNG project buyer; and
- (b) is not an independent buyer.

## **18 When average sales price is the benchmark price**

- (1) This section applies in relation to domestic gas produced by a petroleum producer in a royalty return period if—
  - (a) an election made by the producer under subsection (3) is in effect; or
  - (b) the producer does not provide, for an assessment, the information required to work out, under section 17, the average sales price for domestic gas for the producer for the period; or
  - (c) no gas is sold in the period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—
    - (i) is not an LNG project buyer; and
    - (ii) is an independent buyer; or

- (d) the revenue commissioner decides it is appropriate for the protection of the public revenue for subsection (2) to apply.
- (2) Despite section 17, the average sales price for domestic gas for the petroleum producer for the royalty return period is the benchmark price for domestic gas for the period.
- (3) A petroleum producer may make an election in a royalty return lodged by the producer for subsection (2) to apply.
- (4) An election made by a petroleum producer under subsection (3)—
  - (a) starts on the first day of the royalty return period for the royalty return in which the election is made; and
  - (b) continues in effect for each royalty return period after the royalty return period mentioned in paragraph (a) unless the revenue commissioner ends the election under subsection (6).
- (5) A petroleum producer may apply to the revenue commissioner in the approved form to end an election made under subsection (3).
- (6) The revenue commissioner may decide to end the election only if the revenue commissioner considers ending the election is appropriate having regard to all of the circumstances, including, for example, the protection of the public revenue.
- (7) The revenue commissioner must give the petroleum producer notice of a decision under subsection (6).
- (8) The election ends on the day stated in the notice.
- (9) For subsection (8), the day stated in the notice may be a day before the day on which the petroleum producer made the application under subsection (5) to end the election.
- (10) In making a decision under subsection (1)(d), the revenue commissioner may have regard to any of the following matters—

- (a) any arrangements existing between the petroleum producer, or 1 or more resellers for the producer, and a person who purchases domestic gas from the producer or reseller;
  - (b) the number of sales in the royalty return period of domestic gas produced by the petroleum producer;
  - (c) the volume of domestic gas produced by the petroleum producer in the royalty return period that is sold to an independent buyer;
  - (d) the volume of domestic gas produced by the petroleum producer in the royalty return period that is sold to a person other than an independent buyer;
  - (e) any other matter the revenue commissioner considers relevant.
- (11) The revenue commissioner must give a petroleum producer notice of a decision under subsection (1)(d).
- (12) The decision takes effect on the day stated in the notice.
- (13) For subsection (12), the day stated in the notice may be a day before the day on which the revenue commissioner makes the decision.

## **Subdivision 3      Supply gas**

### **19      Definitions for subdivision**

In this subdivision—

*average sales price*, for supply gas for a petroleum producer for a royalty return period, see sections 21 and 23.

*benchmark price*, for supply gas for a royalty return period, see section 22.

## 20 Petroleum royalty for supply gas

If petroleum produced by a petroleum producer in a royalty return period is supply gas, the producer must pay petroleum royalty for the period on the volume of supply gas produced in the period at the following rate—

- (a) if the average sales price for supply gas for the producer for the period is not more than \$3 per gigajoule—0.05 cents per gigajoule for each 1 cent per gigajoule more than \$0 per gigajoule;
- (b) if the average sales price for supply gas for the producer for the period is more than \$3, but not more than \$8, per gigajoule—15 cents per gigajoule plus 0.10 cents per gigajoule for each 1 cent per gigajoule more than \$3 per gigajoule;
- (c) if the average sales price for supply gas for the producer for the period is more than \$8 per gigajoule—65 cents per gigajoule plus 0.125 cents per gigajoule for each 1 cent per gigajoule more than \$8 per gigajoule.

## 21 What is the *average sales price* for supply gas

- (1) The *average sales price* for supply gas for a petroleum producer for a royalty return period is worked out using the following formula—

$$ASP = \frac{AR + DS}{AV + DV}$$

where—

*ASP* is the average sales price.

*AR* is the total revenue from all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is an LNG project buyer; and
- (b) is an independent buyer.

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**AV** is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is an LNG project buyer; and
- (b) is an independent buyer.

**DS** is the deemed sales value of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is an LNG project buyer; and
- (b) is not an independent buyer.

**DV** is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—

- (a) is an LNG project buyer; and
- (b) is not an independent buyer.

- (2) For subsection (1), the deemed sales value of all gas sold in the royalty return period, either directly by the petroleum producer or indirectly by the producer through 1 or more resellers for the producer, to a person who is an LNG project buyer and is not an independent buyer is worked out using the following formula—

$$DS = BP \times DV$$

where—

**DS** is the deemed sales value.

**BP** is the benchmark price for supply gas for the royalty return period.

**DV** is the total volume of all gas sold in the royalty return period, either directly by the producer or indirectly by the

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producer through 1 or more resellers for the producer, to a person who—

- (a) is an LNG project buyer; and
- (b) is not an independent buyer.

## 22 What is the *benchmark price* for supply gas

The *benchmark price* for supply gas for a royalty return period is the price worked out using the following formula—

$$BP = SP \times 0.09 \text{ barrels per gigajoule}$$

where—

*BP* is the benchmark price for supply gas.

*SP* is the average, for the relevant period for the royalty return period, of the daily Europe Brent Spot Price FOB (Dollars per Barrel) converted into Australian dollars at the average hedge settlement rate for the royalty return period.

## 23 When average sales price is the benchmark price

- (1) This section applies in relation to supply gas produced by a petroleum producer in a royalty return period if—
  - (a) an election made by the producer under subsection (3) is in effect; or
  - (b) the producer does not provide, for an assessment, the information required to work out, under section 21, the average sales price for supply gas for the producer for the period; or
  - (c) no gas is sold in the period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person who—
    - (i) is an LNG project buyer; and
    - (ii) is an independent buyer; or



- (d) the revenue commissioner decides it is appropriate for the protection of the public revenue for subsection (2) to apply.
- (2) Despite section 21, the average sales price for supply gas for the petroleum producer for the royalty return period is the benchmark price for supply gas for the period.
- (3) A petroleum producer may make an election in a royalty return lodged by the producer for subsection (2) to apply.
- (4) An election made by a petroleum producer under subsection (3)—
  - (a) starts on the first day of the royalty return period for the royalty return in which the election is made; and
  - (b) continues in effect for each royalty return period after the royalty return period mentioned in paragraph (a) unless the revenue commissioner ends the election under subsection (6).
- (5) A petroleum producer may apply to the revenue commissioner in the approved form to end an election made under subsection (3).
- (6) The revenue commissioner may decide to end the election only if the revenue commissioner considers ending the election is appropriate having regard to all of the circumstances, including, for example, the protection of the public revenue.
- (7) The revenue commissioner must give the petroleum producer notice of a decision under subsection (6).
- (8) The election ends on the day stated in the notice.
- (9) For subsection (8), the day stated in the notice may be a day before the day on which the petroleum producer made the application under subsection (5) to end the election.
- (10) In making a decision under subsection (1)(d), the revenue commissioner may have regard to any of the following matters—

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- (a) any arrangements existing between the petroleum producer, or 1 or more resellers for the producer, and a person who purchases supply gas from the producer or reseller;
  - (b) the number of sales in the royalty return period of supply gas produced by the petroleum producer;
  - (c) the volume of supply gas produced by the petroleum producer in the royalty return period that is sold to an independent buyer;
  - (d) the volume of supply gas produced by the petroleum producer in the royalty return period that is sold to a person other than an independent buyer;
  - (e) any other matter the revenue commissioner considers relevant.
- (11) The revenue commissioner must give a petroleum producer notice of a decision under subsection (1)(d).
- (12) The decision takes effect on the day stated in the notice.
- (13) For subsection (12), the day stated in the notice may be a day before the day on which the revenue commissioner makes the decision.

## Subdivision 4      Project gas

### 24      Definitions for subdivision

In this subdivision—

*average sales price*, for project gas for a petroleum producer for a royalty return period, see sections 26 and 28.

*benchmark price*, for project gas for a royalty return period, see section 27.

## 25 Petroleum royalty for project gas

If petroleum produced by a petroleum producer in a royalty return period is project gas, the producer must pay petroleum royalty for the period on the volume of project gas produced in the period at the following rate—

- (a) if the average sales price for project gas for the producer for the period is not more than \$9 per gigajoule—0.03 cents per gigajoule for each 1 cent per gigajoule more than \$0 per gigajoule;
- (b) if the average sales price for project gas for the producer for the period is more than \$9, but not more than \$14, per gigajoule—27 cents per gigajoule plus 0.09 cents per gigajoule for each 1 cent per gigajoule more than \$9 per gigajoule;
- (c) if the average sales price for project gas for the producer for the period is more than \$14 per gigajoule—72 cents per gigajoule plus 0.125 cents per gigajoule for each 1 cent per gigajoule more than \$14 per gigajoule.

## 26 What is the *average sales price* for project gas

- (1) The *average sales price* for project gas for a petroleum producer for a royalty return period is worked out using the following formula—

$$ASP = \frac{AR + DS}{AV + DV}$$

where—

*ASP* is the average sales price.

*AR* is the total revenue from all LNG sold in the royalty return period, by each member of the LNG project of which the producer is a member, to a person who is neither a member of the LNG project nor a relevant entity for a member of the LNG project.

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*AV* is the total volume of all LNG sold in the royalty return period, by each member of the LNG project of which the producer is a member, to a person who is neither a member of the LNG project nor a relevant entity for a member of the LNG project.

*DS* is the deemed sales value of all LNG sold in the royalty return period, by each member of the LNG project of which the producer is a member, to a person who is either a member of the LNG project or a relevant entity for a member of the LNG project.

*DV* is the total volume of all LNG sold in the royalty return period, by each member of the LNG project of which the producer is a member, to a person who is either a member of the LNG project or a relevant entity for a member of the LNG project.

- (2) For subsection (1), the deemed sales value of all LNG sold in the royalty return period, by each member of the LNG project of which the petroleum producer is a member, to a person who is either a member of the LNG project or a relevant entity for a member of the LNG project is worked out using the following formula—

$$DS = BP \times DV$$

where—

*DS* is the deemed sales value.

*BP* is the benchmark price for project gas for the royalty return period.

*DV* is the total volume of all LNG sold in the royalty return period, by each member of the LNG project of which the producer is a member, to a person who is either a member of the LNG project or a relevant entity for a member of the LNG project.

## 27 What is the *benchmark price* for project gas

The *benchmark price* for project gas for a royalty return period is the price worked out using the following formula—

$$BP = SP \times 0.135 \text{ barrels per gigajoule}$$

where—

*BP* is the benchmark price for project gas.

*SP* is the average, for the relevant period for the royalty return period, of the daily Europe Brent Spot Price FOB (Dollars per Barrel) converted into Australian dollars at the average hedge settlement rate for the royalty return period.

## 28 When average sales price is the benchmark price

- (1) This section applies in relation to project gas produced by a petroleum producer in a royalty return period if—
  - (a) an election made by the producer under subsection (3) is in effect; or
  - (b) the producer does not provide, for an assessment, the information required to work out, under section 26, the average sales price for project gas for the producer for the period; or
  - (c) no LNG is sold in the period, by a member of the LNG project of which the producer is a member, to a person who is neither a member of the LNG project nor a relevant entity for a member of the LNG project; or
  - (d) the revenue commissioner decides it is appropriate for the protection of the public revenue for subsection (2) to apply.
- (2) Despite section 26, the average sales price for project gas for the petroleum producer for the royalty return period is the benchmark price for project gas for the period.
- (3) A petroleum producer may make an election in a royalty return lodged by the producer for subsection (2) to apply.

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- (4) An election made by a petroleum producer under subsection (3)—
  - (a) starts on the first day of the royalty return period for the royalty return in which the election is made; and
  - (b) continues in effect for each royalty return period after the royalty return period mentioned in paragraph (a) unless the revenue commissioner ends the election under subsection (6).
- (5) A petroleum producer may apply to the revenue commissioner in the approved form to end an election made under subsection (3).
- (6) The revenue commissioner may decide to end the election only if the revenue commissioner considers ending the election is appropriate having regard to all of the circumstances, including, for example, the protection of the public revenue.
- (7) The revenue commissioner must give the petroleum producer notice of a decision under subsection (6).
- (8) The election ends on the day stated in the notice.
- (9) For subsection (8), the day stated in the notice may be a day before the day on which the petroleum producer made the application under subsection (5) to end the election.
- (10) In making a decision under subsection (1)(d), the revenue commissioner may have regard to any of the following matters—
  - (a) any arrangements existing between a member of the LNG project of which the petroleum producer is a member and a person who purchases LNG from a member of the LNG project;
  - (b) the number of sales of LNG in the royalty return period by all members of the LNG project of which the petroleum producer is a member;
  - (c) the volume of LNG sold in the royalty return period by all members of the LNG project of which the petroleum producer is a member to a person who is neither a

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- member of the LNG project nor a relevant entity for a member of the LNG project;
- (d) the volume of LNG sold in the royalty return period by all members of the LNG project of which the petroleum producer is a member to a person who is a member of the LNG project or a relevant entity for a member of the LNG project;
  - (e) any other matter the revenue commissioner considers relevant.
- (11) The revenue commissioner must give a petroleum producer notice of a decision under subsection (1)(d).
  - (12) The decision takes effect on the day stated in the notice.
  - (13) For subsection (12), the day stated in the notice may be a day before the day on which the revenue commissioner makes the decision.

## **Subdivision 5      Liquid petroleum**

### **29      Definitions for subdivision**

In this subdivision—

*average sales price*, for liquid petroleum for a petroleum producer for a royalty return period, see sections 31 and 32.

*benchmark price*, for liquid petroleum for a royalty return period, is the average, for the royalty return period, of the daily Europe Brent Spot Price FOB (Dollars per Barrel) converted into Australian dollars at the average hedge settlement rate for the royalty return period.

### **30      Petroleum royalty for liquid petroleum**

If petroleum produced by a petroleum producer in a royalty return period is liquid petroleum, the producer must pay petroleum royalty for the period on the volume of liquid petroleum produced in the period at the following rate—

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- (a) if the average sales price for liquid petroleum for the producer for the period is not more than \$50 per barrel—0.03 cents per barrel for each 1 cent per barrel more than \$0 per barrel;
- (b) if the average sales price for liquid petroleum for the producer for the period is more than \$50, but not more than \$100, per barrel—\$1.50 per barrel plus 0.115 cents per barrel for each 1 cent per barrel more than \$50 per barrel;
- (c) if the average sales price for liquid petroleum for the producer for the period is more than \$100 per barrel—\$7.25 per barrel plus 0.125 cents per barrel for each 1 cent per barrel more than \$100 per barrel.

### 31 What is the *average sales price* for liquid petroleum

- (1) The *average sales price* for liquid petroleum for a petroleum producer for a royalty return period is worked out using the following formula—

$$ASP = \frac{AR + DS}{AV + DV}$$

where—

*ASP* is the average sales price.

*AR* is the total revenue from all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to an independent buyer.

*AV* is the total volume of all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to an independent buyer.

*DS* is the deemed sales value of all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person other than an independent buyer.



*DV* is the total volume of all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person other than an independent buyer.

- (2) For subsection (1), the deemed sales value of all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person other than an independent buyer is worked out using the following formula—

$$DS = BP \times DV$$

where—

*DS* is the deemed sales value.

*BP* is the benchmark price for liquid petroleum for the royalty return period.

*DV* is the total volume of all oil sold in the royalty return period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to a person other than an independent buyer.

### **32 When average sales price is the benchmark price**

- (1) This section applies in relation to liquid petroleum produced by a petroleum producer in a royalty return period if—
- (a) an election made by the producer under subsection (3) is in effect; or
  - (b) the producer does not provide, for an assessment, the information required to work out, under section 31, the average sales price for liquid petroleum for the producer for the period; or
  - (c) no oil is sold in the period, either directly by the producer or indirectly by the producer through 1 or more resellers for the producer, to an independent buyer; or

- (d) the revenue commissioner decides it is appropriate for the protection of the public revenue for subsection (2) to apply.
- (2) Despite section 31, the average sales price for liquid petroleum for the petroleum producer for the royalty return period is the benchmark price for liquid petroleum for the period.
- (3) A petroleum producer may make an election in a royalty return lodged by the producer for subsection (2) to apply.
- (4) An election made by a petroleum producer under subsection (3)—
  - (a) starts on the first day of the royalty return period for the royalty return in which the election is made; and
  - (b) continues in effect for each royalty return period after the royalty return period mentioned in paragraph (a) unless the revenue commissioner ends the election under subsection (6).
- (5) A petroleum producer may apply to the revenue commissioner in the approved form to end an election made under subsection (3).
- (6) The revenue commissioner may decide to end the election only if the revenue commissioner considers ending the election is appropriate having regard to all of the circumstances, including, for example, the protection of the public revenue.
- (7) The revenue commissioner must give the petroleum producer notice of a decision under subsection (6).
- (8) The election ends on the day stated in the notice.
- (9) For subsection (8), the day stated in the notice may be a day before the day on which the petroleum producer made the application under subsection (5) to end the election.
- (10) In making a decision under subsection (1)(d), the revenue commissioner may have regard to any of the following matters—

- (a) any arrangements existing between the petroleum producer, or 1 or more resellers for the producer, and a person who purchases liquid petroleum from the producer or reseller;
  - (b) the number of sales in the royalty return period of liquid petroleum produced by the petroleum producer;
  - (c) the volume of liquid petroleum produced by the petroleum producer in the royalty return period that is sold to an independent buyer;
  - (d) the volume of liquid petroleum produced by the petroleum producer in the royalty return period that is sold to a person other than an independent buyer;
  - (e) any other matter the revenue commissioner considers relevant.
- (11) The revenue commissioner must give a petroleum producer notice of a decision under subsection (1)(d).
- (12) The decision takes effect on the day stated in the notice.
- (13) For subsection (12), the day stated in the notice may be a day before the day on which the revenue commissioner makes the decision.

## **Division 4                      Royalty returns**

### **33            Purpose of division**

For section 592A of the Act, this division prescribes the requirements for royalty returns lodged under the Act.

### **34            Lodgement with revenue commissioner**

A royalty return must be lodged with the revenue commissioner.

### **35 Form of royalty returns**

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

### **36 Period to which royalty return must relate**

- (1) A royalty return required under the Act to be lodged by a petroleum producer must relate to a period of—
  - (a) if the petroleum producer holds a petroleum lease or a 1923 Act lease—a calendar quarter; or
  - (b) otherwise—a financial year.
- (2) However, if the revenue commissioner considers it appropriate having regard to the amount of the petroleum royalty likely to be payable by the petroleum producer, the revenue commissioner may decide that—
  - (a) for a petroleum producer to whom subsection (1)(a) applies—a royalty return must relate to a financial year; or
  - (b) for a petroleum producer to whom subsection (1)(b) applies—a royalty return must relate to a calendar quarter.
- (3) A petroleum producer may ask the revenue commissioner to make a decision under subsection (2)(b).
- (4) If the revenue commissioner makes a decision under subsection (2)(a) or (b)—
  - (a) the revenue commissioner must give notice of the decision to the petroleum producer 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 must not be earlier than the day the revenue commissioner gives the petroleum producer the notice unless the person agrees otherwise.

- (5) The decision takes effect on the day stated in the notice.

### **37 When royalty return must be lodged**

- (1) A royalty return required under the Act to be lodged by a petroleum producer that relates to a financial year must be lodged within 3 months after the day the year ends.
- (2) A royalty return required under the Act to be lodged by a petroleum producer that relates to a calendar quarter must be lodged on or before the last business day of the month after the day the quarter ends.
- (3) This section applies subject to section 38.

### **38 Revenue commissioner may require royalty return to be lodged on particular day**

- (1) This section applies if the revenue commissioner 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 37(1) or (2).
- (2) The revenue commissioner may, by notice, require the petroleum producer required to lodge the royalty return to lodge it on a stated day that is at least 7 days after the day the revenue commissioner gives the petroleum producer the notice.

### **39 Fee for failing to lodge royalty return on time**

- (1) If a petroleum producer is required to lodge a royalty return and does not lodge the return by the day it is required to be lodged, the petroleum producer must pay the prescribed fee.
- (2) The prescribed fee is \$206.70.
- (3) For the *Taxation Administration Act 2001*, section 30(1)(d), the time by which the prescribed fee is payable is the day the assessment is made of the petroleum royalty payable for the period to which the return relates.

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- (4) The revenue commissioner may remit the whole or part of the fee.
- (5) The remission must be made by assessment under the *Taxation Administration Act 2001*.

## **Division 5                      Payment of petroleum royalty**

### **40            When petroleum royalty payable—yearly return period**

For the *Taxation Administration Act 2001*, section 30(1), the petroleum royalty payable by a petroleum producer under the Act for a royalty return period that is a financial year is payable on the day the royalty return must be lodged for the royalty return period.

### **41            When petroleum royalty payable—return period that is calendar quarter**

- (1) Subject to section 42, the petroleum royalty payable by a petroleum producer under the Act for a royalty return period that is a calendar quarter is payable as follows—
  - (a) instalment 1 is payable on the last business day of the second month of the royalty return period;
  - (b) instalment 2 is payable on the last business day of the third month of the royalty return period;
  - (c) under the *Taxation Administration Act 2001*, section 30(1)(a), instalment 3 is payable on the day a royalty return must be lodged for the royalty return period.
- (2) A petroleum producer must lodge an approved form for a payment under subsection (1) when the payment is made.
- (3) In this section—  
*instalment 1*, for a royalty return period that is a calendar quarter, means—

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- (a) the amount payable by the petroleum producer for the first month of the royalty return period worked out under section 43; or
  - (b) if an election under section 45 applies for the first month of the royalty return period—the amount payable by the petroleum producer for the first month worked out under section 45(5)(a).

*instalment 2*, for a royalty return period that is a calendar quarter, means—

- (a) the amount payable by the petroleum producer for the second month of the royalty return period worked out under section 43; or
- (b) if an election under section 45 applies for the second month of the royalty return period—the amount payable by the petroleum producer for the second month worked out under section 45(5)(b).

*instalment 3*, for a royalty return period that is a calendar quarter, means—

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

## 42 Quarterly payment notice

- (1) If the revenue commissioner considers it appropriate, the revenue commissioner may, by notice (a *quarterly payment notice*) given to a petroleum producer, state that the day petroleum royalty is payable by the petroleum producer for a royalty return period that is a calendar quarter is the day the royalty return must be lodged for the period instead of an earlier time under section 41(1)(a) or (b).
- (2) A quarterly payment notice given to a petroleum producer must state the period for which the notice applies.

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- (3) If the revenue commissioner considers it appropriate to do so, the revenue commissioner may, by notice, withdraw a quarterly payment notice.
- (4) A withdrawal under subsection (3) takes effect from the start of the next royalty return period after the end of the royalty return period in which the notice of the withdrawal is given.

### **43 Working out monthly payments for return period that is calendar quarter generally**

- (1) This section provides, for section 41(1), the amounts payable by a petroleum producer for the first and second months of a royalty return period (the *current royalty return period*).

*Note—*

See, however, section 45.

- (2) The amount payable by the petroleum producer for each of the first and second months of the current royalty return period is a third of the total amount of the petroleum royalty payable by the petroleum producer under the Act for the previous royalty return period—
  - (a) taking into account any assessment under the *Taxation Administration Act 2001*, for the petroleum royalty payable for the previous royalty return period, made before the earlier of the following events happens—
    - (i) the amount for the first month of the current royalty return period is paid;
    - (ii) the amount for the first month of the current royalty return period becomes payable; and
  - (b) disregarding any assessment under the *Taxation Administration Act 2001*, for the petroleum royalty payable for the previous royalty return period, made when, or after, the earlier of the events mentioned in paragraph (a)(i) and (ii) happens.

*Example—*

The petroleum royalty paid for the previous royalty return period was \$90,000. A reassessment for the previous royalty return period was



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made by the revenue commissioner under the *Taxation Administration Act 2001* to increase the petroleum royalty payable for the previous royalty return period to \$120,000. The reassessment was made before the amount payable for the first month of the royalty 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 royalty return period is \$40,000 (being a third of \$120,000).

#### **44 Working out monthly payments for return period that is calendar quarter in particular circumstances**

- (1) This section applies if—
  - (a) an amount is payable by a petroleum producer under section 43(2) for the first and second months of a royalty return period (the *current royalty return period*); and
  - (b) either—
    - (i) the petroleum producer did not lodge a royalty return for the previous royalty return period, as required under the Act; or
    - (ii) the previous royalty return period was not a calendar quarter.
- (2) For working out the amounts payable by the petroleum producer under section 43(2)—
  - (a) the revenue commissioner may—
    - (i) if subsection (1)(b)(i) applies—estimate the total amount of petroleum royalty payable by the petroleum producer under the Act for the previous royalty return period; or
    - (ii) if subsection (1)(b)(ii) applies—adjust the amount of petroleum royalty payable by the petroleum producer under the Act for the previous royalty return period to estimate an amount representative of the petroleum royalty that would have been payable if the previous royalty return period were a calendar quarter; and

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

#### **45 Election to change monthly payments for return period that is calendar quarter**

- (1) This section applies if, at the relevant time—
- (a) a petroleum producer reasonably believes the amount of petroleum royalty payable by the producer under the Act for a royalty return period that is a calendar quarter (the *current royalty return period*) will be less than the petroleum royalty payable by the producer under the Act for the previous royalty return period; and
  - (b) the revenue commissioner has not given the petroleum producer a notice under section 46.
- (2) For subsection (1), the petroleum royalty payable by the petroleum producer under the Act for the previous royalty return period is the amount that, under section 43 or 44, is the petroleum royalty payable by the producer under the Act for the previous royalty return period for section 43(2).
- (3) The petroleum producer may elect to change the amount payable for the first or second months of the current royalty return period.

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- (4) The election must—
- (a) be in the approved form; and
  - (b) state the amount of petroleum royalty the petroleum producer reasonably believes will be payable by the petroleum producer under the Act for the current royalty return period; and
  - (c) unless the revenue commissioner, by notice given to the petroleum producer, approves another day for making the election—be lodged on or before—
    - (i) for an election for the first month of the current royalty return period—the last business day of the second month of the royalty return period; or
    - (ii) for an election for the second month of the current royalty return period—the last business day of the third month of the royalty return period.
- (5) Subject to subsection (6)—
- (a) if the petroleum producer makes an election under subsection (3) for the first month of the current royalty return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election; or
  - (b) if the petroleum producer makes an election under subsection (3) for the second month of the current royalty return period, the amount payable for that month is a third of the amount mentioned in subsection (4)(b) for the election.
- (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 (b).
- (7) In this section—
- relevant time***, for an election for the first month or the second month of a royalty return period, means when the amount payable for the month becomes payable under section 41.

## **46 Revenue commissioner may give notice requiring petroleum royalty payable to be worked out under s 43**

- (1) This section applies if—
  - (a) a petroleum producer has previously made an election under section 45(3); and
  - (b) the revenue commissioner considers the petroleum producer did not have a reasonable basis for forming the belief mentioned in section 45(1)(a) for the election.
- (2) The revenue commissioner may give the petroleum producer a notice stating that the amounts payable by the petroleum producer for the first and second months of 1 or more royalty return periods must be worked out under section 43.
- (3) The petroleum producer may not make an election under section 45(3) for a royalty return period to which the notice relates.

## **Division 6 Joint venture tenures**

### **47 Definitions for division**

In this division—

*amount*, of petroleum produced under a joint venture tenure, includes a percentage or proportion of petroleum produced under the tenure.

*election period*, for a joint venture tenure, means the period for which a non-tenure holder is taken to be a petroleum producer, in relation to an amount of petroleum produced under the joint venture tenure, for a royalty provision.

*joint venture tenure* see section 48(1)(b).

*non-tenure holder* see section 48(1)(a).

*tenure holder* see section 48(1)(b).

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**48 Non-tenure holder may apply to be treated as petroleum producer for joint venture tenure**

- (1) This section applies if—
  - (a) a person (the *non-tenure holder*) is a participant in a joint venture, or other arrangement, involving the production of petroleum and does not hold a petroleum tenure under which the petroleum for the joint venture or other arrangement is produced; and
  - (b) another person (the *tenure holder*) holds a petroleum tenure under which the petroleum for the joint venture or other arrangement is produced (the *joint venture tenure*).
- (2) The non-tenure holder may apply to the revenue commissioner to be taken to be a petroleum producer, in relation to a stated amount of petroleum produced under the joint venture tenure, for a royalty provision.
- (3) The application must—
  - (a) be in the approved form; and
  - (b) identify the joint venture tenure; and
  - (c) state the proposed amount of petroleum produced under the joint venture tenure for which the non-tenure holder is to be taken to be a petroleum producer for a royalty provision; and
  - (d) state the proposed day for the election period for the joint venture tenure to start; and
  - (e) state either—
    - (i) the proposed day for the election period for the joint venture tenure to end; or
    - (ii) that the election period for the joint venture tenure is to end under section 49; and
  - (f) be accompanied by the consent to the application of the tenure holder.
- (4) The revenue commissioner must decide the application by—

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- (a) granting the application in the way proposed; or
  - (b) granting the application in another way, with the written agreement of the non-tenure holder and tenure holder; or
  - (c) refusing to grant the application.
- (5) The revenue commissioner may grant the application only if the revenue commissioner is satisfied the decision would not adversely affect the protection of the public revenue.
- (6) The election period must not—
- (a) start on a day earlier than the first day of the current royalty return period; or
  - (b) if a day is stated under subsection (3)(e)(i)—end on a day later than the stated day.
- (7) The revenue commissioner must give the non-tenure holder and the tenure holder notice of the decision.
- (8) If the decision is to refuse to grant the application, the notice must include reasons for the decision.
- (9) If the revenue commissioner decides to grant the application, for the election period for the joint venture tenure—
- (a) the non-tenure holder is taken to produce the amount of petroleum produced under the joint venture tenure that is decided by the revenue commissioner; and
  - (b) the non-tenure holder is taken to be a petroleum producer, in relation to the amount of petroleum mentioned in paragraph (a), for a royalty provision; and
  - (c) the non-tenure holder is taken to be a taxpayer under the *Taxation Administration Act 2001* in relation to petroleum royalty payable on the amount of petroleum mentioned in paragraph (a); and
  - (d) a provision relating to when a royalty return is required to be lodged is taken to apply to the non-tenure holder as if the non-tenure holder held the joint venture tenure; and

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- (e) sections 591 and 591A of the Act are taken to apply, in relation to the amount of petroleum mentioned in paragraph (a), as if the non-tenure holder held the joint venture tenure.
- (10) This section does not affect the tenure holder's liability to pay petroleum royalty on the amount of petroleum mentioned in subsection (9)(a) if the non-tenure holder does not pay the royalty.
- (11) In this section—  
*current royalty return period* means the royalty return period applying in relation to the joint venture tenure on the day the application under this section is made.

#### **49 Ending of election period on application or by revenue commissioner**

- (1) This section applies if the revenue commissioner has approved an application in relation to a joint venture tenure under section 48.
- (2) The non-tenure holder or tenure holder for the joint venture tenure may apply to the revenue commissioner to end the election period for the joint venture tenure.
- (3) The application must—
- (a) be in the approved form; and
  - (b) state the proposed day for the election period for the joint venture tenure to end; and
  - (c) if the application is made by the non-tenure holder—be accompanied by evidence that the non-tenure holder has notified the tenure holder of the application; and
  - (d) if the application is made by the tenure holder—be accompanied by evidence that the tenure holder has notified the non-tenure holder of the application.
- (4) The revenue commissioner must decide the application by—
- (a) ending the election period on the day proposed; or

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- (b) ending the election period on another day, with the written agreement of the non-tenure holder and tenure holder; or
  - (c) refusing to end the election period.
- (5) The revenue commissioner must decide to end the election period if the revenue commissioner is satisfied that ending the election period would not adversely affect the protection of the public revenue.
  - (6) The revenue commissioner may also decide, on the revenue commissioner's own initiative, to end the election period for the joint venture tenure if the revenue commissioner is satisfied that ending the election period is appropriate for the protection of the public revenue.
  - (7) The day on which the election period ends must not be earlier than the first day of the current royalty return period.
  - (8) The revenue commissioner must give the non-tenure holder and the tenure holder notice of a decision under subsection (4) or (6).
  - (9) If the decision is under subsection (6), the notice must include reasons for the decision.
  - (10) To remove any doubt, it is declared that the ending of the election period for the joint venture tenure does not affect a liability arising before the ending of the period.
  - (11) In this section—
    - current royalty return period*** means—
      - (a) for an application under subsection (2)—the royalty return period applying in relation to the joint venture tenure on the day the application is made; or
      - (b) for a decision under subsection (6)—the royalty return period applying in relation to the joint venture tenure on the day the decision is made.



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## Division 7                      Royalty estimate

### 50            Purpose of division

This division prescribes for section 593(2) of the Act the requirements for royalty estimates.

### 51            What notice must contain

- (1) The notice given by the revenue commissioner to a petroleum producer under section 593 of the Act (a *royalty estimate notice*) must include the following—
  - (a) the period (the *estimate period*) for which the petroleum producer is to estimate the royalties payable by the petroleum producer under section 590 of the Act;
  - (b) the day by which the petroleum producer must provide the royalty estimate;
  - (c) the form in which the petroleum producer must provide the royalty estimate;
  - (d) a description of the information the petroleum producer must provide in the royalty estimate.
- (2) For subsection (1)(d), the information the revenue commissioner may ask a petroleum producer to provide in the royalty estimate includes the following—
  - (a) a statement of each type of petroleum the producer expects to produce in the estimate period;
  - (b) for each type of petroleum stated under paragraph (a), an estimate of the following for the estimate period—
    - (i) the volume of petroleum the producer expects to produce;
    - (ii) the volume of petroleum the producer expects to be exempt from petroleum royalty under section 591 or 591A of the Act;
    - (iii) the volume of petroleum the producer expects to be subject to the benchmark price for the petroleum;

- (iv) the average sales price for the petroleum for the petroleum producer for the estimate period.
- (3) Subsection (2) does not limit the information the revenue commissioner may ask to be included in the royalty estimate.
- (4) In this section—
  - type*, of petroleum, means—
    - (a) domestic gas; or
    - (b) supply gas; or
    - (c) project gas; or
    - (d) liquid petroleum.

## **52 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 asked for in the royalty estimate notice.

## **53 Revenue commissioner may request information to support royalty estimate**

- (1) The revenue commissioner may, by notice to a petroleum producer who has lodged a royalty estimate, ask the petroleum producer to give the revenue commissioner, by the day stated in the notice, information to support the matters stated in the royalty estimate.
- (2) The revenue commissioner may, by notice to a petroleum producer who must provide a royalty estimate under section 593(2) of the Act, ask the petroleum producer to give the revenue commissioner, by the day stated in the notice, additional information about the matters that must be included in the royalty estimate.

- (3) If the revenue commissioner asks a petroleum producer for information under subsection (1) or (2), the petroleum producer must provide the information by the day stated in the notice.

## **Division 8                      Miscellaneous**

### **54            Application of part to swap arrangements**

- (1) The revenue commissioner may make a determination about how this part applies to swap arrangements.
- (2) Without limiting subsection (1), for petroleum subject to a swap arrangement, a determination may be made about—
  - (a) how the average sales price for the petroleum is to be worked out for division 3; and
  - (b) if the petroleum is gas—whether the gas is to be classified as domestic gas, supply gas or project gas.
- (3) The revenue commissioner must publish a determination made under subsection (1) on the department’s website.
- (4) In this section—

*swap arrangement* means an arrangement entered into between a petroleum producer or a reseller for a petroleum producer and another petroleum producer or a reseller for a petroleum producer, to swap rights or obligations in relation to petroleum produced by the producers to the extent the arrangement relates to exchanging the same volume and quality of petroleum in a particular period.

### **55            Imposition of civil penalty—Act, s 594**

- (1) This section applies if a petroleum producer makes a section 45 election and either—
  - (a) the petroleum royalty payable for the current royalty return period exceeds the petroleum royalty payable for the previous royalty return period by an amount that is

- more than 15% of the petroleum royalty payable for the previous royalty return period; or
- (b) both of the following apply—
- (i) the petroleum royalty payable for the current royalty return period is less than the petroleum royalty payable for the previous royalty return period;
- (ii) the total of the petroleum royalty payable for the first month and the second month of the current royalty return period is less than 50% of the total petroleum royalty payable for the current royalty return period.
- (2) The producer 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 royalty return period for which the producer makes the section 45 election.
- (3) For subsection (2), the *default estimate difference* for a month of the current royalty return period is the difference between—
- (a) the amount that would have been payable for the month under section 43 if the producer had not made the section 45 election; and
- (b) the amount payable for the month under the section 45 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 0.
- (5) Subsection (6) applies if, for petroleum royalty payable for the current royalty return period, an assessment is made under the *Taxation Administration Act 2001*.
- (6) For subsection (1), the petroleum royalty payable for the current royalty return period is the amount of petroleum royalty payable taking into account the assessment.

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- (7) For subsection (1), a reference to the petroleum royalty payable for the previous royalty return period is a reference to the amount worked out under section 45(2).
  - (8) The revenue commissioner may remit the whole or part of the civil penalty.
  - (9) The remission must be made by assessment.
  - (10) In this section—

*current royalty return period* see section 45(1)(a).

*section 45 election* means an election under section 45(3) to change the amount payable for the first month or the second month, or both, of the current royalty return period.

## 56 Unpaid tax interest on petroleum royalty—Taxation Administration Act 2001, s 54

- (1) For the *Taxation Administration Act 2001*, section 54(9), this section provides for working out the period for which unpaid tax interest accrues if—
  - (a) petroleum royalty is payable by a person under section 41(1) for a royalty return period that is a calendar quarter; and
  - (b) the person has not paid all of the amount payable for instalment 1, instalment 2 or instalment 3 as required under section 41.
- (2) If instalment 1 or instalment 2 is not paid in full by the day required under section 41, unpaid tax 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.

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- (3) If the petroleum royalty payable for the royalty return period is not paid in full on the lodgement day, unpaid tax 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 petroleum royalty return must be lodged for a royalty return period, disregarding any extension given under the *Taxation Administration Act 2001*, section 151.

## Part 3 Transitional provisions

### 57 Definitions for part

In this part—

*corresponding provision*, for a provision of the expired regulation, means a provision of this regulation that provides for the same, or substantially the same, matter as the provision of the expired regulation.

*expired regulation* means the expired *Petroleum and Gas (Royalty) Regulation 2004* as in force from time to time before the commencement.

### 58 Existing notice of revenue commissioner

- (1) A notice given by the revenue commissioner about a decision, determination or another matter, under a provision of the expired regulation, is taken to be a notice given by the revenue commissioner about the decision, determination or other matter under the corresponding provision of this regulation.
- (2) In this section—

*decision* includes an amendment or revocation of a decision.

*determination* includes an amendment or revocation of a determination.

**59 Existing determination of revenue commissioner that petroleum venture is LNG project**

- (1) This section applies to a determination made by the revenue commissioner under section 139 of the expired regulation that was in effect immediately before the commencement.
- (2) The determination is taken to be a determination made by the revenue commissioner under section 10.
- (3) In this section—  
*determination* includes an amendment or revocation of a determination.

**60 Liability to notify status as member of LNG project under section 141 of expired regulation**

- (1) This section applies if—
  - (a) before the commencement, a person was required to give a notice under section 141 of the expired regulation; and
  - (b) immediately before the commencement, the liability to give the notice was still in effect.
- (2) Despite the expiry of section 141 of the expired regulation—
  - (a) the liability to give the notice continues under the expired regulation as if the expired regulation had not expired; and
  - (b) the person may be prosecuted for an offence against section 141(2) of the expired regulation as if the expired regulation had not expired.

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**61 Existing notification of status when petroleum producer, or reseller for producer, sells to member of LNG project**

- (1) This section applies to a notice given by a person under section 141(2) of the expired regulation that was in effect immediately before the commencement.
- (2) The notice is taken to be a notice given by the person under section 12(2).

**62 Liability to notify revenue commissioner under section 142 of expired regulation**

- (1) This section applies if—
  - (a) before the commencement, a person was required to give the revenue commissioner a notice under section 142(2) or (4) of the expired regulation; and
  - (b) immediately before the commencement, the liability to give the notice was still in effect.
- (2) Despite the expiry of section 142 of the expired regulation—
  - (a) the liability to give the notice continues under the expired regulation as if the expired regulation had not expired; and
  - (b) the person may be prosecuted for an offence against section 142(2) or (4) of the expired regulation as if the expired regulation had not expired.

**63 Royalty return period starting before commencement**

A reference in this regulation to a royalty return period includes a reference to a period, starting before the commencement of this section, that was a royalty return period under the expired regulation.

**64 Existing election by petroleum producer of domestic gas for benchmark price to apply**

- (1) This section applies if—



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- (a) a petroleum producer made an election under section 147(3) of the expired regulation for section 147(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the election had not ended.
- (2) The election is taken to be an election made by the petroleum producer under section 18(3).

**65 Existing decision by revenue commissioner for benchmark price to apply—domestic gas**

- (1) This section applies if—
- (a) the revenue commissioner made a decision under section 147(1)(d) of the expired regulation for section 147(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the decision was in effect.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 18(1)(d).

**66 Undecided application by petroleum producer of domestic gas to end election for benchmark price to apply**

- (1) This section applies if—
- (a) a petroleum producer made an application under section 147(5) of the expired regulation to end an election made under section 147(3) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The application is taken to have been made under section 18(5).

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- (3) If the revenue commissioner decides to end the election under section 18(6), the day stated in the notice under section 18(8) may be a day before the commencement.

**67 Decision to end election for benchmark price to apply—domestic gas**

- (1) This section applies if the revenue commissioner decides to end an election under section 18(6).
- (2) The day stated in the notice under section 18(8) may be a day before the commencement.

**68 Existing election by petroleum producer of supply gas for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an election under section 148D(3) of the expired regulation for section 148D(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the election had not ended.
- (2) The election is taken to be an election made by the petroleum producer under section 23(3).

**69 Existing decision by revenue commissioner for benchmark price to apply—supply gas**

- (1) This section applies if—
  - (a) the revenue commissioner made a decision under section 148D(1)(d) of the expired regulation for section 148D(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the decision was in effect.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 23(1)(d).

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**70 Undecided application by petroleum producer of supply gas to end election for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an application under section 148D(5) of the expired regulation to end an election made under section 148D(3) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The application is taken to have been made under section 23(5).
- (3) If the revenue commissioner decides to end the election under section 23(6), the day stated in the notice under section 23(8) may be a day before the commencement.

**71 Decision to end election for benchmark price to apply—supply gas**

- (1) This section applies if the revenue commissioner decides to end an election under section 23(6).
- (2) The day stated in the notice under section 23(8) may be a day before the commencement.

**72 Existing election by petroleum producer of project gas for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an election under section 148I(3) of the expired regulation for section 148I(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the election had not ended.
- (2) The election is taken to be an election made by the petroleum producer under section 28(3).

**73 Existing decision by revenue commissioner for benchmark price to apply—project gas**

- (1) This section applies if—
  - (a) the revenue commissioner made a decision under section 148I(1)(d) of the expired regulation for section 148I(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the decision was in effect.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 28(1)(d).

**74 Undecided application by petroleum producer of project gas to end election for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an application under section 148I(5) of the expired regulation to end an election made under section 148I(3) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The application is taken to have been made under section 28(5).
- (3) If the revenue commissioner decides to end the election under section 28(6), the day stated in the notice under section 28(8) may be a day before the commencement.

**75 Decision to end election for benchmark price to apply—project gas**

- (1) This section applies if the revenue commissioner decides to end an election under section 28(6).
- (2) The day stated in the notice under section 28(8) may be a day before the commencement.

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**76 Existing election by petroleum producer of liquid petroleum for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an election under section 148M(3) of the expired regulation for section 148M(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the election had not ended.
- (2) The election is taken to be an election made by the petroleum producer under section 32(3).

**77 Existing decision by revenue commissioner for benchmark price to apply—liquid petroleum**

- (1) This section applies if—
  - (a) the revenue commissioner made a decision under section 148M(1)(d) of the expired regulation for section 148M(2) of the expired regulation to apply; and
  - (b) immediately before the commencement, the decision was in effect.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 32(1)(d).

**78 Undecided application by petroleum producer of liquid petroleum to end election for benchmark price to apply**

- (1) This section applies if—
  - (a) a petroleum producer made an application under section 148M(5) of the expired regulation to end an election made under section 148M(3) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The application is taken to have been made under section 32(5).

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- (3) If the revenue commissioner decides to end the election under section 32(6), the day stated in the notice under section 32(8) may be a day before the commencement.

**79 Decision to end election for benchmark price to apply—liquid petroleum**

- (1) This section applies if the revenue commissioner decides to end an election under section 32(6).
- (2) The day stated in the notice under section 32(8) may be a day before the commencement.

**80 Period to which royalty return must relate—calendar quarter or financial year starting on 1 July 2021**

- (1) This section applies if a royalty return required under the Act to be lodged by a petroleum producer was required under section 148Q of the expired regulation to relate to a period of the calendar quarter starting on 1 July 2021 or the financial year starting on 1 July 2021.
- (2) The requirement is taken to be a requirement imposed under section 36.
- (3) If the royalty return relates to the financial year starting on 1 July 2021—
  - (a) the royalty return must be lodged under section 37(1); and
  - (b) the royalty return is not required to be lodged under section 148R(1) of the expired regulation.
- (4) If the royalty return relates to the calendar quarter starting on 1 July 2021—
  - (a) the royalty return must be lodged under section 37(2); and
  - (b) the royalty return is not required to be lodged under section 148R(2) of the expired regulation.

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**81 Undecided request about period to which royalty return must relate**

- (1) This section applies if—
  - (a) a petroleum producer asked the revenue commissioner, under section 148Q(3) of the expired regulation, to make a decision under section 148Q(2)(b) of the expired regulation; and
  - (b) immediately before the commencement, the revenue commissioner had not made a decision under section 148Q(2)(b) of the expired regulation.
- (2) The petroleum producer is taken to have asked the revenue commissioner, under section 36(3), to make a decision under section 36(2)(b).
- (3) If the revenue commissioner makes a decision under section 36(2)(b), the day stated in the notice under section 36(4)(c) may be a day before the commencement.

**82 Existing decision of revenue commissioner about period to which royalty return must relate**

- (1) This section applies to a decision made by the revenue commissioner under section 148Q(2)(a) or (b) of the expired regulation that was in effect immediately before the commencement.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 36(2)(a) or (b).

**83 Decision of revenue commissioner about period to which royalty return must relate**

- (1) This section applies if the revenue commissioner makes a decision under section 36(2)(a) or (b).
- (2) The day stated in the notice under section 36(4)(c) may be a day before the commencement.

**84 Existing requirement of revenue commissioner to lodge royalty return on particular day**

- (1) This section applies to a requirement imposed by the revenue commissioner under section 148S of the expired regulation that was in effect immediately before the commencement.
- (2) The requirement is taken to be a requirement imposed by the revenue commissioner under section 38.

**85 Existing quarterly payment notice of revenue commissioner**

- (1) This section applies to a quarterly payment notice given by the revenue commissioner under section 148W of the expired regulation that was in effect immediately before the commencement.
- (2) The quarterly payment notice is taken to be a quarterly payment notice given by the revenue commissioner under section 42.

**86 Existing notice of revenue commissioner stating estimated amount of payments**

- (1) This section applies to a notice given by the revenue commissioner under section 148Y(2)(b) of the expired regulation that was in effect immediately before the commencement.
- (2) The notice is taken to be a notice given by the revenue commissioner under section 44.

**87 Existing election by petroleum producer to change monthly payments for return period that is calendar quarter**

- (1) This section applies if—
  - (a) a petroleum producer made an election under section 148Z(3) of the expired regulation; and



- (b) immediately before the commencement, the election had not ended.
- (2) The election is taken to be an election made by the petroleum producer under section 45(3).

**88 Existing notice of revenue commissioner approving another day for making election under section 148Z of expired regulation**

- (1) This section applies to a notice given by the revenue commissioner under section 148Z(4)(c) of the expired regulation that was in effect immediately before the commencement.
- (2) The notice is taken to be a notice given by the revenue commissioner under section 45(4)(c).

**89 Existing notice of revenue commissioner requiring petroleum royalty payable to be worked out under section 148X of expired regulation**

- (1) This section applies to a notice given by the revenue commissioner under section 148ZA(2) of the expired regulation that was in effect immediately before the commencement.
- (2) The notice is taken to be a notice given by the revenue commissioner under section 46.

**90 Undecided application by non-tenure holder to be treated as petroleum producer for joint venture tenure**

- (1) This section applies if—
  - (a) a non-tenure holder made an application under section 148ZC(2) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.

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- (2) The application is taken to have been made under section 48(2).
- (3) If the revenue commissioner decides to grant the application, the election period mentioned in section 48(6) may start on a day before the commencement.

**91 Existing decision of revenue commissioner to grant application by non-tenure holder to be treated as petroleum producer for joint venture tenure**

- (1) This section applies to a decision made by the revenue commissioner under section 148ZC of the expired regulation that was in effect immediately before the commencement.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 48.

**92 Decision of revenue commissioner to grant application by non-tenure holder to be treated as petroleum producer for joint venture tenure**

- (1) This section applies if the revenue commissioner grants an application under section 48.
- (2) The election period under section 48(6) may start on a day before the commencement.

**93 Undecided application to end election period for joint venture tenure**

- (1) This section applies if—
  - (a) a non-tenure holder or tenure holder made an application under section 148ZD(2) of the expired regulation; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The application is taken to have been made under section 49(2).

- (3) If the revenue commissioner decides to end the election period for the joint venture tenure, the day on which the election period ends under section 49(7) may be a day before the commencement.

**94 Existing decision of revenue commissioner to end election period for joint venture tenure**

- (1) This section applies to a decision made by the revenue commissioner under section 148ZD of the expired regulation that was in effect immediately before the commencement.
- (2) The decision is taken to be a decision made by the revenue commissioner under section 49.

**95 Decision of revenue commissioner to end election period for joint venture tenure**

- (1) This section applies if the revenue commissioner grants an application under section 49.
- (2) The day on which the election period ends under section 49(7) may be a day before the commencement.

**96 Existing notice of revenue commissioner requesting information to support royalty estimate**

- (1) This section applies to a notice given by the revenue commissioner under section 149D of the expired regulation that was in effect immediately before the commencement.
- (2) The notice is taken to be a notice given by the revenue commissioner under section 53.

**97 Existing determination of revenue commissioner about swap arrangements**

- (1) This section applies to a determination made by the revenue commissioner under section 149 of the expired regulation that was in effect immediately before the commencement.

- (2) The determination is taken to be a determination made by the revenue commissioner under section 54.

## **98 Lodgement day before commencement**

A reference in section 56 of this regulation to the lodgement day includes a reference to a day, before the commencement, that was a lodgement day under section 149I of the expired regulation.

## **99 Saving of operation of ch 7, pt 14 of expired regulation**

Chapter 7, part 14 of the expired regulation is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

## **100 References to expired regulation**

- (1) A reference in a document to the expired regulation may, if the context permits, be taken to be a reference to this regulation.
- (2) Unless the context otherwise indicates or requires, a reference in a current document to a provision of the expired regulation is taken to be a reference to the corresponding provision of this regulation.
- (3) In this section—

*current document* means a document in effect under the expired regulation immediately before the commencement.

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# Schedule 1      Dictionary

## section 3

**amount**, of petroleum produced under a joint venture tenure, for part 2, division 6, see section 47.

**average hedge settlement rate**, for a royalty return period, for part 2, see section 5(1).

**average sales price**—

- (a) for domestic gas for a petroleum producer for a royalty return period, for part 2, division 3, subdivision 2—see sections 17 and 18; or
- (b) for supply gas for a petroleum producer for a royalty return period, for part 2, division 3, subdivision 3—see sections 21 and 23; or
- (c) for project gas for a petroleum producer for a royalty return period, for part 2, division 3, subdivision 4—see sections 26 and 28; or
- (d) for liquid petroleum for a petroleum producer for a royalty return period, for part 2, division 3, subdivision 5—see sections 31 and 32.

**benchmark price**—

- (a) for domestic gas for a royalty return period, for part 2, division 3, subdivision 2—see section 15; or
- (b) for supply gas for a royalty return period, for part 2, division 3, subdivision 3—see section 22; or
- (c) for project gas for a royalty return period, for part 2, division 3, subdivision 4—see section 27; or
- (d) for liquid petroleum for a royalty return period, for part 2, division 3, subdivision 5—see section 29.

**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.

***domestic gas***, for part 2, see section 6.

***election period***, for a joint venture tenure, for part 2, division 6, see section 47.

***gas***, for part 2, see section 5(1).

***hedge settlement rate***, for a day, for part 2, see section 5(1).

***independent buyer***, in relation to a petroleum producer or a reseller for the producer, for part 2, see section 5(1).

***joint venture tenure***, for part 2, division 6, see section 48(1)(b).

***liquid petroleum***, for part 2, see section 9.

***LNG***, for part 2, see section 5(1).

***LNG project***, for part 2, see section 5(1).

***LNG project buyer***, in relation to a petroleum producer or a reseller for the producer, for part 2, see section 5(1).

***member***, of an LNG project, for part 2, see section 5(1).

***non-tenure holder***, for part 2, division 6, see section 48(1)(a).

***oil***, for part 2, see section 5(1).

***previous royalty return period***, in relation to a royalty return period, means the royalty return period immediately preceding the royalty return period.

***project gas***, for part 2, see section 8.

***quarterly period*** 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.

**relevant entity**, for a petroleum producer, means—

- (a) for a petroleum producer 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 petroleum producer 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) of that Act.

**relevant period**, for a royalty return period, for part 2, division 3, see section 14.

**reseller**, for a petroleum producer, means a relevant entity for the producer that sells, or otherwise transfers ownership of, petroleum that is produced by the producer and owned by the reseller.

**royalty estimate notice** see section 51(1).

**standard temperature and pressure**, for part 2, see section 5(1).

**supply gas**, for part 2, see section 7.

**tenure holder**, for part 2, division 6, see section 48(1)(b).

**unpaid tax interest** see the *Taxation Administration Act 2001*, section 54(1).

**volume**, of petroleum, for part 2, division 3, see section 14.