



Queensland

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

# **Petroleum and Gas (Royalty) Regulation 2004**

**Current as at 1 July 2019**

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Queensland

# Petroleum and Gas (Royalty) Regulation 2004

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# **Petroleum and Gas (Royalty) Regulation 2004**

## **Chapter 1 Preliminary**

### **Part 1 Introduction**

#### **1 Short title**

This regulation may be cited as the *Petroleum and Gas (Royalty) Regulation 2004*.

#### **3 Dictionary**

The dictionary in schedule 12 defines particular words used in this regulation.

## **Chapter 6 Fees and royalties**

### **Part 2 Late fee and royalties etc.**

#### **Division 1 Late fee**

#### **133 Fee for late lodgement of royalty return—Act, s 595**

For section 595(3) of the Act, the prescribed fee is \$199.70.

## Division 4            Petroleum royalty

### Subdivision 1        Prescribed matters for petroleum royalty

#### 146A    Royalty return period

For the Act, schedule 2, definition *royalty return period*, the period prescribed is a quarterly period.

#### 147    When and how petroleum royalty payable—royalty return period

(1) Petroleum royalty payable by a petroleum producer is payable, as provided under this section, for the following royalty return period—

(a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—the royalty return period in which the petroleum is disposed of;

*Note—*

See also section 74N (Petroleum royalty and annual rent) of the 1923 Act.

*Example—*

If petroleum is produced under a petroleum lease on 30 September and disposed of between 23 and 31 October, the petroleum royalty for the petroleum is payable for the royalty return period in which 23 to 31 October falls.

(b) otherwise—the royalty return period in which the petroleum is produced.

(2) A petroleum producer *disposes of* petroleum if the producer—

(a) sells or otherwise transfers ownership of the petroleum to another person; or

(b) flares or vents the petroleum; or

(c) uses the petroleum.



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- (3) Subject to subsection (5), the petroleum royalty payable by a petroleum producer for a royalty return period is payable as follows—
- (a) instalment 1 is payable on or before the last business day of the second month of the royalty return period;
  - (b) instalment 2 is payable on or before the last business day of the third month of the royalty return period;
  - (c) instalment 3 is payable on the day a royalty return must be lodged for the royalty return period.
- (4) A person must lodge an approved form for a payment under subsection (3) when the payment is made.
- (5) If the Minister considers it appropriate to do so, the Minister may, by notice (a *payment notice*), allow a petroleum producer to pay the petroleum royalty payable by the producer for a royalty return period on the day a royalty return must be lodged for the royalty return period.
- (6) A payment notice given to a petroleum producer must state the period for which the notice applies.
- (7) If the Minister considers it appropriate to do so, the Minister may, by notice, withdraw a payment notice.
- (8) A withdrawal under subsection (7) takes effect from the start of the next royalty return period after the royalty return period in which the notice of the withdrawal is given ends.
- (9) In this section—
- instalment 1*, for a royalty return period, means—
- (a) the amount payable by the producer for the first month of the royalty return period worked out under section 147A(2); or
  - (b) if an election under section 147B(3) applies for the first month of the royalty return period—the amount payable by the producer for the first month of the royalty return period worked out under section 147B(5).

*instalment 2*, for a royalty return period, means—

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- (a) the amount payable by the producer for the second month of the royalty return period worked out under section 147A(3); or
- (b) if an election under section 147B(3) applies for the second month of the royalty return period—the amount payable by the producer for the second month of the royalty return period worked out under section 147B(6).

*instalment 3*, for a royalty return period, 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 for the royalty return period—the amount that is the total amount of the petroleum royalty payable by the petroleum producer for the royalty return period less that sum; or
- (b) otherwise—zero.

*Note—*

Section 600 of the Act provides for a refund if the amount of petroleum royalty paid by a petroleum producer for a royalty return period is more than the amount of petroleum royalty payable by the producer for the royalty return period.

## **147A Working out monthly payments for petroleum royalty generally**

- (1) This section prescribes, for section 147(3), the amounts payable by a petroleum producer for each month of a royalty return period.

*Note—*

Section 147B allows a petroleum producer to make an election to change the amount payable for the first or second month of a royalty return period if the producer reasonably believes the petroleum royalty payable by the producer for the royalty return period will be less than the petroleum royalty payable by the producer for the previous royalty return period.

- (2) The amount payable by the petroleum producer for the first month of the royalty return period is an amount that is a third

of the total amount of the petroleum royalty payable by the producer for the previous royalty return period.

- (3) The amount payable by the petroleum producer for the second month of the royalty return period is an amount that is a third of the total amount of the petroleum royalty payable by the producer for the previous royalty return period.
- (4) For subsections (2) and (3), the petroleum royalty payable by the petroleum producer for the previous royalty return period is the petroleum royalty payable by the producer for the previous royalty return period disregarding any assessment under section 599B of the Act, and any reassessment under section 599C of the Act, for the royalty.
- (5) If the petroleum producer has not lodged a royalty return for the previous royalty return period as required under the Act—
  - (a) the Minister—
    - (i) may estimate the amount of petroleum royalty payable by the producer for the previous royalty return period for working out the amounts payable under subsections (2) and (3); and
    - (ii) must give the producer a notice stating the estimated amount; and
  - (b) for subsections (2) and (3), the petroleum royalty payable by the producer for the previous royalty return is the estimated amount.
- (6) In estimating an amount for subsection (5), the Minister may have regard to—
  - (a) any other royalty returns lodged by the petroleum producer; and
  - (b) the size of the operation for which the petroleum royalty is payable; and
  - (c) any other relevant matter.

## **147B Election to change monthly payments**

- (1) This section applies if—
  - (a) at the relevant time, a petroleum producer reasonably believes the amount of petroleum royalty payable by the producer for a royalty return period (the *current royalty return period*) will be less than the petroleum royalty payable by the producer for the previous royalty return period; and
  - (b) the Minister has not given the producer a notice stating that the amounts payable by the producer for the royalty return period must be worked out under section 147A.
- (2) For subsection (1), the petroleum royalty payable by the petroleum producer for the previous royalty return period is the amount that, under section 147A(4) or (5)(b), is the petroleum royalty payable by the producer for the previous royalty return period for section 147A(2) and (3).
- (3) The petroleum producer may elect to change the amount payable for the first month or the second month of the current royalty return period.
- (4) The election must—
  - (a) be lodged in the approved form; and
  - (b) state the amount of petroleum royalty the petroleum producer reasonably believes will be payable by the producer for the current royalty return period; and
  - (c) be lodged on or before the following day unless the Minister has, by giving notice to the producer, approved another day for making the election—
    - (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;
    - (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.

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- (5) Subject to subsection (7), 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.
  - (6) Subject to subsection (7), 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.
  - (7) The amount payable, as changed under subsection (3) for the first month or the second month of a royalty return period, may be more than the amount payable under subsection (5) or (6).
  - (8) The Minister may give a notice mentioned in subsection (1)(b) if—
    - (a) the petroleum producer has made an election under this section for a month in a royalty return period; and
    - (b) the Minister considers that the producer did not have a reasonable basis for forming the belief mentioned in subsection (1)(a) for the election.
  - (9) 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 147.

### **147BA When petroleum royalty payable—annual royalty return**

- (1) Petroleum royalty payable by a petroleum producer is payable, as provided under this section, for the following annual return period—
  - (a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—the annual return period in which the petroleum is disposed of;

*Note—*

See also section 74N (Petroleum royalty and annual rent) of the 1923 Act.

*Example—*

If petroleum is produced under a petroleum lease on 30 May and disposed of during October, the petroleum royalty for the petroleum is payable for the annual return period in which October falls.

- (b) otherwise—the annual return period in which the petroleum is produced.
- (2) Subsection (3) applies if the amount of petroleum royalty payable by a petroleum producer for an annual return period under the Act, section 599 is more than the amount of petroleum royalty payable by the producer for all the royalty return periods occurring during the annual return period (the **royalty difference**).
- (3) The petroleum producer must pay the royalty difference when the annual royalty return for the annual return period is required to be lodged.

*Note—*

Section 600 of the Act provides for a refund if the amount of petroleum royalty paid by a petroleum producer for an annual return period is more than the amount of petroleum royalty payable by the producer for the annual return period.

## **147C Rate of petroleum royalty payable**

Petroleum royalty payable by a petroleum producer for a royalty return period or annual return period is payable at the rate of 12.5% of the wellhead value of—

- (a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—the petroleum disposed of by the petroleum producer during the period; or
- (b) otherwise—the petroleum produced by the petroleum producer during the period.

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## **148 Working out wellhead value of petroleum**

- (1) This section applies to petroleum—
  - (a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—disposed of by a petroleum producer during a royalty return period or annual return period; or
  - (b) otherwise—produced by a petroleum producer during a royalty return period or annual return period.
- (2) The wellhead value of the petroleum for the royalty return period or annual return period is—
  - (a) the amount the petroleum could reasonably be expected to realise if it were sold on a commercial basis; less
  - (b) the sum of the following—
    - (i) the expenses for the period that may be deducted under this section;
    - (ii) for a royalty return period—any negative wellhead value that may be deducted under subsection (4).
- (3) For subsection (2)(b)(i), the expenses are each of the following—
  - (a) a pipeline tariff or other charge paid or payable by the petroleum producer to a third party for transporting the petroleum through a pipeline to the point of its disposal, if the Minister reasonably believes the amount of the tariff is reasonable on a commercial basis;
  - (b) a processing plant toll or other charge paid or payable by the petroleum producer to a third party for processing the petroleum before it is disposed of, if the toll is calculated—
    - (i) on a commercial basis; or
    - (ii) if the Minister reasonably believes that use of the plant by other petroleum producers or for other purposes makes another basis for charging the most practicable basis—on the other basis;

- (c) depreciation of capital expenditure by the petroleum producer on a petroleum facility or pipeline used for processing the petroleum or transporting it from the wellhead of the well in which it was produced to the point of its disposal, allocated over—
    - (i) 10 years; or
    - (ii) a shorter period decided by the Minister, if the Minister reasonably believes the shorter period is reasonable having regard to the expected potential for production of the natural underground reservoir from which the petroleum is produced;
  - (d) an operating cost incurred, or to be incurred, by the petroleum producer that directly relates to—
    - (i) treating, processing or refining the petroleum before it is disposed of; or
    - (ii) transporting the petroleum to the point of its disposal;
  - (e) another expense incurred, or to be incurred, by the petroleum producer in relation to the operation of the site at which the petroleum was produced that is approved by the Minister for the purpose of this subsection.
- (4) However, the following expenses are not included under subsection (3)—
- (a) an expense incurred by the petroleum producer in producing the petroleum, including, for example, lifting costs;
  - (b) office overhead costs for an office that is not located—
    - (i) for petroleum produced under a petroleum tenure or 1923 Act petroleum tenure—within the area of the tenure; or
    - (ii) otherwise—at the site at which the petroleum is produced;
  - (c) marketing costs in relation to the sale of the petroleum;



- (d) Commonwealth excise levies;
- (e) a civil penalty or royalty penalty amount, or interest on an amount, payable by the producer under the Act.

*Example—*

In a royalty return period, a petroleum producer sells 20 units of gas and uses 2 units of gas to generate electricity. Half of the electricity generated is used in recovering gas to ground level and the remainder is used to operate other plant at the field. The cost of the electricity used to recover the gas to ground level would not be included under subsection (3).

*Note—*

For paragraph (e), see, for example, sections 76, 588 and 602 of the Act.

- (5) If a petroleum producer's expenses mentioned in subsection (3) for a royalty return period are more than the amount mentioned in subsection (2)(a) for the royalty return period—
  - (a) the amount of the excess is a **negative wellhead value** for the royalty return period; and
  - (b) the negative wellhead value may be deducted under subsection (2)(b)(ii) in a later royalty return period in the same annual return period.
- (6) To remove doubt, it is declared that a petroleum producer is not entitled to receive any payment in relation to a negative wellhead value.
- (7) If a petroleum royalty decision applies for the petroleum for a royalty return period or annual return period, the wellhead value of the petroleum for the period must be worked out using—
  - (a) the value of 1 or more components of the wellhead value of the petroleum under the decision; or
  - (b) the method or formula for working out the value of 1 or more components of the wellhead value of the petroleum under the decision.

## **Subdivision 2      Working out components of wellhead value of petroleum in particular circumstances**

### **148A    Definitions for subdivision**

In this subdivision—

***component***, of the wellhead value of petroleum disposed of or produced by a petroleum producer in a royalty return period, means—

- (a) an element used to work out the amount under section 148(2)(a) that the petroleum could reasonably be expected to realise; or
- (b) an expense, or an amount contributing to an expense, under section 148(3)(a), (b), (d) or (e).

***earlier return period***, in relation to a petroleum royalty decision for petroleum, means a royalty return period or annual return period for the petroleum that occurs wholly or partly before the Minister—

- (a) makes the decision; or
- (b) amends the decision under section 148H or 148K.

***petroleum royalty decision*** see section 148E(3).

***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

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- (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.

*stated factor* see section 148E(7).

### **148B Application by petroleum producer for petroleum royalty decision**

- (1) A petroleum producer may apply to the Minister for a petroleum royalty decision for petroleum that has been or will be—
- (a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—disposed of by the petroleum producer during a royalty return period or annual return period; or
- (b) otherwise—produced by the petroleum producer during a royalty return period or annual return period.
- (2) The application must—
- (a) be in writing; and
- (b) state why the petroleum producer is seeking the petroleum royalty decision; and
- (c) state a proposed value of, or proposed method or formula for working out, 1 or more components of the wellhead value of the petroleum for 1 or more of the following—
- (i) a particular transaction;
- (ii) a particular class of transaction;
- (iii) some or all transactions in a particular period; and
- Examples of a method or formula for working out a component of the wellhead value of petroleum—*
- a fixed value with adjustments in particular circumstances
  - a formula for deciding the market value

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- (d) state the proposed period for which the petroleum royalty decision is to apply.
- (3) Without limiting subsection (2)(d), the application may relate to 1 or more royalty return periods or annual return periods, regardless of whether any of the royalty return periods or annual return periods start or end before the application is made.

### **148C Petroleum royalty decision on Minister's own initiative**

- (1) The Minister may, on the Minister's own initiative, make a petroleum royalty decision under section 148E for petroleum if, for a period—
- (a) the petroleum is or will be produced other than under a petroleum tenure or a 1923 Act petroleum tenure; or
  - (b) the petroleum is or will be disposed of to a relevant entity for the petroleum producer for the petroleum; or
  - (c) the petroleum is or will be disposed of to, or used by, a person and the producer receives a non-financial benefit from the disposal or use of the petroleum (whether or not the producer also receives or will receive a financial benefit from the disposal or use of the petroleum); or
  - (d) an expense mentioned in section 148(2)(b)(i) has been or will be paid or become payable to a relevant entity for the producer; or
  - (e) the petroleum has been or will be disposed of by being flared, vented or used; or
  - (f) the Minister reasonably believes—
    - (i) the amount mentioned in section 148(2)(a) that the producer determines or may determine as the amount the petroleum could reasonably be expected to realise is less than the market value of the petroleum; or
    - (ii) the expenses mentioned in section 148(2)(b)(i) paid or incurred, or that may be payable or

incurred, are more than the amount that would reasonably be paid or incurred by the producer for the period.

- (2) Subsection (1)(f) applies whether or not any of the following has happened—
  - (a) a transaction relating to the petroleum;
  - (b) the incurring or payment of an expense mentioned in section 148(2)(b)(i) relating to the petroleum;
  - (c) the lodgement of a royalty return, or an annual royalty return, for the period.
- (3) If the Minister proposes to make a petroleum royalty decision for petroleum on the Minister's own initiative, the Minister must—
  - (a) give a notice to the petroleum producer for the petroleum that the Minister proposes to make the decision; and
  - (b) invite the producer to make submissions about the proposed decision within—
    - (i) 30 days after the day the Minister gives the producer the notice; or
    - (ii) if the Minister approves a longer period—the longer period.

## **148D Considerations in making petroleum royalty decisions**

In making a petroleum royalty decision for petroleum (the *relevant petroleum*), the Minister—

- (a) must consider—
  - (i) if the petroleum producer for the relevant petroleum applied for the decision under section 148B—the matters stated in the petroleum producer's application; and
  - (ii) any submissions about the proposed decision made by the petroleum producer within the period

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mentioned in section 148C(3)(b) for the submissions; and

- (b) may consider any document or information the Minister reasonably considers relevant for making the decision; and
- (c) may also consider any of the following matters—
  - (i) the amount for which petroleum of a similar kind to the relevant petroleum has been disposed of in an arms-length transaction to a person other than a relevant entity for the petroleum producer;
  - (ii) the amount for which a product made using the relevant petroleum, or petroleum of a similar kind, has been disposed of;
  - (iii) how the value of the relevant petroleum can be adjusted to reflect changes to the market value of the petroleum;
  - (iv) the expenses incurred or likely to be incurred by the petroleum producer when disposing of the relevant petroleum in an arms-length transaction to a person other than a relevant entity for the petroleum producer;
  - (v) the nature of the relationship between the petroleum producer and the entity to which the petroleum has been or will be disposed of, or that has used or will use the petroleum;
  - (vi) the period for which the petroleum royalty decision, or aspects of the decision, will apply;
  - (vii) the need for any future adjustment of the petroleum royalty decision or aspects of the decision;
  - (viii) any other relevant matter.

## **148E Petroleum royalty decision**

- (1) This section applies if the Minister—

- (a) receives an application by a petroleum producer under section 148B for a petroleum royalty decision for 1 or more components of the wellhead value of petroleum; or
  - (b) proposes under section 148C to make a petroleum royalty decision for 1 or more components of the wellhead value of petroleum on the Minister's own initiative.
- (2) The Minister must decide—
- (a) the value of 1 or more components of the wellhead value of the petroleum; or
  - (b) the method or formula for working out the value of 1 or more components of the wellhead value of the petroleum.
- (3) The Minister's decision under this section is a ***petroleum royalty decision***.
- (4) Without limiting the scope of the petroleum royalty decision, the petroleum royalty decision may—
- (a) state a value, method or formula for—
    - (i) deciding the market value of the petroleum; or
    - (ii) working out particular tolls or tariffs relating to the petroleum paid or payable by the petroleum producer for the petroleum; or
    - (iii) adjusting the market value of the petroleum or the tolls or tariffs in particular circumstances; or
    - (iv) working out any other component of the wellhead value of the petroleum; and
  - (b) apply for a particular period, including, for example, an earlier return period starting or ending before the decision is made; and
  - (c) provide for different values for 1 or more components of the wellhead value of the petroleum for particular periods, transactions or classes of transactions; and

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- (d) provide for different methods or formulas for working out the value of 1 or more components of the wellhead value of the petroleum for particular periods, transactions or classes of transactions.
- (5) If the petroleum producer applied for the petroleum royalty decision—
- (a) the Minister may decide the value of, or method or formula for, a component under subsection (2) or (4), even if the component is not stated in the producer's application; and
  - (b) to remove any doubt, it is declared that the Minister may decide the value of a component, the method or formula for working out the value of a component, or the period, transaction or class of transaction for which the decision applies (each a *relevant matter*), even if—
    - (i) the relevant matter is not stated in the producer's application; or
    - (ii) the way in which the relevant matter is stated in the producer's application is different from the way the relevant matter is stated in the decision.
- (6) After making the petroleum royalty decision, the Minister must give the petroleum producer for the petroleum a notice stating—
- (a) the reasons for the decision; and
  - (b) for each component of the wellhead value of the petroleum—
    - (i) the value of the component; or
    - (ii) the method or formula for working out the value of the component; and
  - (c) if the decision applies for a period—the period; and
  - (d) if the decision applies for a particular transaction or class of transaction—the transaction or class; and
  - (e) if the decision applies for an earlier return period—whether, subject to section 148M, the Minister will



assess or reassess the amount of royalty payable for the earlier return period; and

*Note—*

See also sections 599B and 599C of the Act.

- (f) the producer may apply, under section 148J, to the Minister to review the decision.
- (7) The Minister may also state in the notice a fact or circumstance the Minister considers would have a direct or indirect impact on the decision if the fact or circumstance were to change (a *stated factor*).

*Example of a stated factor—*

Under a petroleum royalty decision, the value of petroleum disposed of by a producer to a relevant entity for the producer is determined having regard to the amount for which petroleum of a similar kind is disposed of by the producer under a contract with a person who is not a relevant entity. The Minister may state in the decision that the termination of the contract would impact on the decision, so the continuation of the contract is a stated factor for the decision.

#### **148F Using expired petroleum royalty decision to work out wellhead value of petroleum in particular circumstances and Minister's obligation to reassess**

- (1) This section applies if—
  - (a) a petroleum royalty decision for petroleum (the *original decision*) states that the decision applies for a particular period; and
  - (b) before the period ends (the *expiry*)—
    - (i) the petroleum producer for the petroleum lodges an application under section 148B for another petroleum royalty decision (the *new decision*) to take effect on the expiry of the original decision; or
    - (ii) the Minister, under section 148C(3), gives a notice to the producer stating that the Minister proposes to make another petroleum royalty decision (also the *new decision*) to take effect on the expiry of the original decision; and

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- (c) the Minister has not made the new decision before the expiry.
- (2) For petroleum produced or disposed of by the producer during the period starting immediately after the expiry until a notice for the new decision is given to the producer under section 148E(6)—
- (a) the producer, in complying with the producer's obligations under the Act, must work out the wellhead value for the petroleum as if the original decision continues to apply to the petroleum; and
  - (b) the Minister must make any assessment of the amount of the petroleum royalty payable for the petroleum as if the original decision continues to apply to the petroleum.
- (3) Subsection (4) applies if the Minister—
- (a) makes a new decision for petroleum produced or disposed of by the producer during the period mentioned in subsection (2); and
  - (b) has made an assessment of the amount of petroleum royalty payable under an original decision for a royalty return period or annual return period for the petroleum; and
  - (c) is reasonably satisfied the amount of petroleum royalty payable for the petroleum under the original decision is incorrect.
- (4) The Minister must under section 599C of the Act reassess the amount of petroleum royalty payable for the petroleum.

*Note—*

On making a reassessment, see section 600 of the Act for the Minister's obligation to refund any excess amount.

- (5) Subsection (6) applies if, on a reassessment under subsection (4), the producer is liable for a royalty penalty amount, unpaid royalty interest or a civil penalty (each a ***relevant royalty-related amount***).

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- (6) The Minister must remit the relevant royalty-related amount to the extent the amount is payable solely because of the operation of subsection (2).

## **Subdivision 2A    Amendment and review of petroleum royalty decisions**

### **148G    Petroleum producer to advise Minister of particular matters affecting petroleum royalty decision**

- (1) This section applies if—
- (a) a petroleum royalty decision is incorrect when the decision is made; or
- Examples of when a petroleum royalty decision may be incorrect when the decision is made—*
- information relied on by the Minister in making the decision is false or misleading
  - the decision contains a typographical error
- (b) a petroleum royalty decision is incapable of being applied by the petroleum producer for working out the wellhead value of the petroleum to which the decision applies; or
- Example for paragraph (b)—*
- A part of the decision relies on the completion of an activity by the producer before a stated day, but the producer fails to complete the activity by that day.
- (c) a stated factor for a petroleum royalty decision has changed.
- Example for paragraph (c)—*
- A stated factor for a petroleum royalty decision is the existence of a contract for the disposal of petroleum with an entity other than a relevant entity. The termination of the contract is a change to the stated factor.
- (2) Within 60 days after becoming aware the decision is incorrect or incapable of being applied, or within 60 days after the

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stated factor has changed, the producer for the petroleum to which the decision applies must—

- (a) advise the Minister of the matter in writing; and
- (b) give the Minister—
  - (i) if the decision is incorrect—any documents or information about why the decision is incorrect; or
  - (ii) if the decision is incapable of being applied—any documents or information about why it is incapable of being applied; or
  - (iii) if a stated factor has changed—any documents or information relevant to the change.

Maximum penalty—20 penalty units.

#### **148H Minister may amend petroleum royalty decision in particular circumstances**

- (1) The Minister may amend a petroleum royalty decision (an *earlier decision*) for petroleum if the Minister is reasonably satisfied of any of the following matters—
  - (a) the earlier decision was incorrect when it was made;
  - (b) the earlier decision is incapable of being applied by the petroleum producer for the petroleum for working out the wellhead value of the petroleum;
  - (c) a stated factor for the earlier decision has changed;
  - (d) any other fact or circumstance fundamental to the earlier decision has changed.
- (2) If the Minister proposes to amend the earlier decision in a way that increases the wellhead value of the petroleum, the Minister must—
  - (a) give notice to the producer that the Minister proposes to make the amendment; and
  - (b) invite the producer to make submissions about the proposal within—

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- (i) 30 days after the day the Minister gives the producer the notice; or
    - (ii) if the Minister approves a longer period—the longer period.
  - (3) In deciding whether to amend the earlier decision, the Minister—
    - (a) may consider the matters mentioned in section 148D(b) or (c) as if they related to making the amendment; and
    - (b) if a submission is made by the petroleum producer within the period mentioned in subsection (2)(b) for the submission—must consider the submission.
  - (4) To remove any doubt, it is declared that if the Minister is satisfied of a matter under subsection (1) for a particular component of the wellhead value to which the earlier decision applies, the amendment may relate wholly or partly to another component of the wellhead value of the petroleum.
  - (5) The amendment must, for a royalty return period or an annual return period for which the earlier decision applies, be made within 5 years after the day the petroleum royalty for the petroleum to which the earlier decision applies became payable by the producer for the period.
  - (6) Despite subsection (5), the Minister may amend an earlier decision at any time in a way that increases the wellhead value of the petroleum if the Minister reasonably believes that before the earlier decision was made, the petroleum producer, or a person acting on behalf of the producer—
    - (a) knowingly misled the Minister, or knowingly caused the Minister to be misled, about a matter relevant for deciding the earlier decision; or
    - (b) deliberately failed to give the Minister documents or information relevant for deciding the earlier decision.
  - (7) The Minister can not be compelled to amend an earlier decision in a way that decreases the wellhead value of the petroleum if, for a royalty return period or an annual return period, petroleum royalty was payable for that period.

### **148I Notice of amendment**

After amending an earlier decision under section 148H, the Minister must give the petroleum producer for the petroleum to which the earlier decision, as amended, applies a notice stating—

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

*Note—*

See section 599C of the Act and section 148M.

- (e) that the producer may apply, under section 148J, to the Minister to review the amendment.

### **148J Application for review of petroleum royalty decision or amendment of petroleum royalty decision**

- (1) The petroleum producer for petroleum may apply to the Minister to review—
  - (a) a petroleum royalty decision for the petroleum; or
  - (b) an amendment, made under section 148H, of a petroleum royalty decision for the petroleum.
- (2) The application must—
  - (a) be in writing; and
  - (b) state the reasons for requesting the review.
- (3) If the application seeks a review of a petroleum royalty decision, the petroleum producer must lodge it within—
  - (a) 60 days after the day the Minister gives the producer the notice mentioned in section 148E(6); or

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- (b) if the Minister approves a longer period for lodging the application—the longer period.
- (4) If the application seeks a review of an amendment, made under section 148H, of a petroleum royalty decision, the petroleum producer must lodge it within—
- (a) 60 days after the day the Minister gives the producer the notice mentioned in section 148I; or
  - (b) if the Minister approves a longer period for lodging the application—the longer period.

#### **148K Review decision**

- (1) If the petroleum producer makes an application (the *review application*) under section 148J, the Minister must decide the application by affirming or amending the decision or amendment (the *original decision*).
- (2) If the original decision was made by a delegate of the Minister, the delegate must not decide the review application.
- (3) In deciding the review application, the Minister may consider any matter mentioned in section 148D(b) or (c) as if that matter related to the review.

#### **148L Notice of review decision**

- (1) After deciding a review application under section 148K, the Minister must give the applicant a notice stating—
  - (a) that the Minister has affirmed or amended the original decision; and
  - (b) if the original decision has been amended—how the decision has been amended; and
  - (c) the reasons for the Minister’s decision to affirm or amend the original decision; and
  - (d) if the original decision has been amended and the amended decision applies for an earlier return period—

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the Minister will reassess the amount of royalty payable for the earlier return period.

*Note—*

See section 599C of the Act and section 148M.

(2) In this section—

*original decision* see section 148K(1).

### **148M Minister must reassess amount of particular petroleum royalty payable**

(1) This section applies if—

- (a) a petroleum royalty decision (the *unamended decision*), or an amendment under section 148H or 148K of a petroleum royalty decision, applies for petroleum for an earlier return period; and
- (b) the Minister has made an assessment of the amount of petroleum royalty payable for the petroleum by the petroleum producer for the period without having regard to the unamended decision or the amendment.

*Note—*

If an assessment of the petroleum royalty payable for the petroleum has not been made for the earlier return period, the Minister must make an assessment of the royalty payable for the period, having regard to the unamended decision or amendment, under section 599B of the Act.

- (2) The Minister must reassess, under section 599C of the Act, the amount of petroleum royalty payable for the petroleum by the producer for each earlier return period to which the unamended decision or the amendment applies.
- (3) Subsection (4) applies if the reassessment period, as defined in section 599C(4) of the Act, has expired in relation to an earlier return period mentioned in subsection (2).
- (4) For the purposes of section 599C(5)(b) of the Act, a reassessment required under subsection (2) decreasing the amount of petroleum royalty payable for the petroleum by the producer for the earlier return period must be made after the reassessment period unless—



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- (a) the petroleum royalty decision was made on the Minister's own initiative under section 148C; or
  - (b) all of the following apply—
    - (i) the reassessment was made because the Minister made the amendment, under section 148H(1), after being reasonably satisfied, for the amendment, of a matter mentioned in the section;
    - (ii) the Minister considers section 148G applies in relation to that matter;
    - (iii) the holder failed to comply with the requirement to advise the Minister under section 148G(2) in relation to that matter before the amendment.

### **Subdivision 3      Royalty return**

#### **149      Information to be contained in royalty return**

- (1) For section 594(1) of the Act, the information that must be contained in a royalty return for a royalty return period is each of the following—
  - (a) the wellhead value of the petroleum—
    - (i) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—disposed of by the petroleum producer during the royalty return period; or
    - (ii) otherwise—produced by the petroleum producer during the royalty return period;
  - (b) a breakdown of the expenses deducted under section 148(2)(b)(i) for working out the wellhead value mentioned in paragraph (a);
  - (c) the amount of any negative wellhead value deducted under section 148(2)(b)(ii) for working out the wellhead value mentioned in paragraph (a);

- (d) for each relevant petroleum product disposed of by the producer during the royalty return period—
  - (i) the volume of the product disposed of; and
  - (ii) the amount of any revenue earned by the producer in relation to the product.
- (2) For section 599(3)(a) of the Act, the royalty information that must be stated in an annual royalty return for the annual return period is each of the following—
  - (a) the wellhead value of the petroleum—
    - (i) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—disposed of by the petroleum producer during the annual return period; or
    - (ii) otherwise—produced by the petroleum producer during the annual return period;
  - (b) a breakdown of the expenses deducted under section 148(2)(b)(i) for working out the wellhead value mentioned in paragraph (a);
  - (c) for each relevant petroleum product disposed of by the producer during the annual return period—
    - (i) the volume of the product disposed of; and
    - (ii) the amount of any revenue earned by the producer in relation to the product.
- (3) The information must be provided using the approved form.
- (4) In this section—

***relevant petroleum product*** means—

  - (a) a petroleum product; and
  - (b) any other petroleum, or substance derived from petroleum, disposed of by the petroleum producer.

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## Subdivision 4 Royalty estimate

### 149A Application of sdiv 4

This subdivision prescribes for section 599A(2) of the Act the requirements for royalty estimates.

### 149B What notice must contain

- (1) The notice given by the Minister to a petroleum producer under section 599A(1) 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 Minister may ask a petroleum producer to provide in the royalty estimate includes the following—
  - (a) an estimate of the royalties payable by the petroleum producer under section 590 of the Act for the estimate period;
  - (b) identification of each relevant petroleum product the petroleum producer expects to dispose of in the estimate period;
  - (c) for each relevant petroleum product identified for paragraph (b), an estimate of the following for the estimate period—
    - (i) the volume of the petroleum product the petroleum producer expects to dispose of;

- (ii) the amount of any revenue the petroleum producer expects to earn in relation to the petroleum product;
  - (iii) the amount of allowable deductions the petroleum producer expects to incur in relation to the petroleum product;
  - (iv) the wellhead value of the petroleum product;
  - (d) the exchange rate the petroleum producer has assumed for working out the estimate of royalties mentioned in paragraph (a).
- (3) Subsection (2) does not limit the information the Minister may ask to be included in the royalty estimate.
- (4) In this section—
- relevant petroleum product* means—
- (a) a petroleum product; or
  - (b) any other petroleum, or substance derived from petroleum, disposed of by the petroleum producer.

#### **149C 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.

#### **149D Minister may request information to support royalty estimate**

- (1) The Minister may, by notice to a petroleum producer who has lodged a royalty estimate, ask the petroleum producer to give the Minister, by the day stated in the notice, information to support the matters stated in the royalty estimate.

- (2) The Minister may, by notice to a petroleum producer who must provide a royalty estimate under section 599A(2) of the Act, ask the petroleum producer to give the Minister, by the day stated in the notice, additional information about the matters that must be included in the royalty estimate.
- (3) If the Minister 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.

## Subdivision 4A Civil penalty

### 149E Imposition of civil penalty—Act, s 604A

- (1) This section applies if a petroleum producer makes a section 147B 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 147B 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 147A if the producer had not made the section 147B election; and
  - (b) the amount payable for the month under the section 147B 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 the petroleum royalty payable for the current royalty return period—
  - (a) an assessment is made under the Act, section 599B; or
  - (b) a reassessment is made under the Act, section 599C.
- (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 or reassessment.
- (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 147B(2).
- (8) The Minister may remit the whole or part of the civil penalty.
- (9) In this section—

*current royalty return period* see section 147B(1)(a).

*section 147B election* means an election under section 147B(3) to change the amount payable for the first month or the second month, or both, of the current royalty return period.

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### **149F Notice of civil penalty**

- (1) If a petroleum producer is liable to pay a civil penalty under section 149E, the Minister must give the producer a written notice stating—
  - (a) the amount of the civil penalty that is payable; and
  - (b) that the producer must pay the civil penalty on or before the day stated in the notice.
- (2) For subsection (1)(b), the day must be at least 28 days after the day the notice is given to the producer.

### **149G Civil penalty not payable if proceeding for offence started**

- (1) This section applies if—
  - (a) a petroleum producer is liable to pay a civil penalty under section 149E because of an act or omission of the producer; and
  - (b) the act or omission constitutes an offence under the Act.

*Example of an act or omission constituting an offence—*

giving false or misleading information in contravention of the Act, section 607

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

## **Subdivision 4B Unpaid royalty interest**

### **149H Unpaid royalty interest rate—Act, s 602(3)(a)**

For section 602(3)(a) of the Act, the rate of interest is the rate prescribed for unpaid tax interest under the *Taxation Administration Act 2001*, section 54(2).

### **149I Working out unpaid royalty interest on petroleum royalty payable for royalty return period—Act, s 602(4)**

- (1) This section applies for working out the period for which unpaid royalty interest accrues under the Act, section 602, if—
  - (a) petroleum royalty is payable by a petroleum producer under section 147(3) for a royalty return period; and
  - (b) the producer has not paid all of the amount payable for instalment 1, instalment 2 or instalment 3 as required under section 147.
- (2) Unpaid royalty interest accrues—
  - (a) if instalment 1 or instalment 2 is not paid in full by the day required under section 147—on the amount unpaid from time to time, for the period starting on the day after the day the instalment must be paid and ending on the earlier of the following days, both days inclusive—
    - (i) the day the instalment is paid in full;
    - (ii) the lodgement day; and
  - (b) if the petroleum royalty payable for the royalty return period is not paid in full on the lodgement day—on the total amount unpaid from time to time, for the period starting on the day after the lodgement day and ending when the total amount is paid in full, both days inclusive.
- (3) In this section—



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*lodgement day* means the day a royalty return must be lodged for the royalty return period.

## **Subdivision 5 Giving documents under royalty provisions**

### **150 Non-application of s 599O of Act**

Section 599O(1) of the Act does not apply to a person if the person is not required to pay a royalty-related amount for a royalty return period or annual return period under—

- (a) an Act relating to the royalty-related amount; or
- (b) a court order.

### **151 Way document may be given by Minister—Act, s 559P**

For section 599P(1)(c) of the Act, the circumstances are—

- (a) the document relates to a royalty provision; and
- (b) the person has consented to the document being given using the approved information system; and
- (c) the document is made available in a format that can be saved and stored by the person outside the approved information system.

### **152 When document is given to person—Act, s 599Q**

(1) For section 599Q(1)(c) of the Act, a document made available using an approved information system is taken to be given to the person on—

- (a) the day the person is given notice that the document is available using the approved information system; or
- (b) if the Minister is satisfied that, on the day mentioned in paragraph (a), the approved information system itself was not available to be accessed—the day the document

is first available, using the approved information system, after the notice mentioned in paragraph (a) is given.

*Examples for paragraph (b)—*

- 1 Planned system maintenance or an unplanned system outage affects the approved information system and prevents it being accessed. The approved information system itself is not available to be accessed during the maintenance or outage.
  - 2 A person does not have access to the internet, but the approved information system is functioning normally. The approved information system itself is available to be accessed.
- (2) For subsection (1), the notice is taken to be given to the person on—
- (a) if the notice is given by email—the date the email is sent; or
  - (b) if the notice is given by text message—the date the text message is sent.

## **Chapter 7      Transitional and saving provisions**

*Note—*

Some provisions referred to in this chapter were repealed by the *Petroleum and Gas (Production and Safety) and Other Legislation Amendment Regulation 2017* or the *Petroleum and Gas (Safety) Regulation 2018*.

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## **Part 1**                      **Transitional and savings provisions for SL No. 309 of 2004**

### **Division 1**                **Transitional provisions relating to the Gas (Residual Provisions) Regulation 1989**

#### **156**    **Definitions for div 1**

In this division—

*chief gas examiner* means the chief gas examiner under the repealed *Gas (Residual Provisions) Act 1965*.

*commencement* means the commencement of section 860 of the Act.

*existing*, for an approval or certificate given under the repealed regulation, means an approval or certificate that is in effect immediately before the commencement.

*repealed regulation* means the repealed *Gas (Residual Provisions) Regulation 1989*.

#### **157**    **Approval for non-conforming gas**

An existing approval given by the chief gas examiner under section 21 of the repealed regulation is, on the commencement, taken to be a gas quality approval given by the chief inspector under section 622 of the Act.

#### **158**    **Approval of gas devices etc.**

- (1) An existing approval for an appliance, container, fitting or system given by an approval body under section 81 of the repealed regulation is taken to be an approval given by the chief inspector, or a person or body approved by the chief inspector, under section 733(1) of the Act.

(2) In this section—

*approval body* means—

- (a) the chief gas examiner; or
- (b) a person or body approved by the chief gas examiner under section 81 of the repealed regulation.

### **159 Continuing effect of certificates of compliance**

(1) An existing certificate of compliance under section 99 of the repealed regulation continues, on the commencement, to have effect as a gas inspection certificate under chapter 5, part 3.

(2) A certificate mentioned in section 109(2A)(b) of the repealed regulation given by a licensed person is, on the commencement, taken to be a certification given under section 734(3) of the Act.

(3) A certificate mentioned in section 110(2), 111(2) or 112(2) of the repealed regulation given by a licensed person continues, on the commencement, to have effect as a gas inspection certificate under chapter 5, part 3.

(4) In this section—

*licensed person* means a licensed person under the repealed regulation.

### **160 Approval of plans and specifications for particular installations**

(1) An existing approval given by the chief gas examiner under section 100(2) of the repealed regulation continues, on the commencement, to have effect.

(2) The installation to which the approval relates is not required to comply with a safety requirement to the extent that the approval relates to an aspect of the plans and specifications for the installation that does not comply with the safety requirement.

(3) However, subsection (2) no longer applies if—

- (a) the installation is modified so that it no longer complies with the approved plans and specifications; or
- (b) the plans and specifications that were approved are modified.

### **161 Effect of existing approval of vessel's gas system**

- (1) This section applies if the plans and specifications for a gas fuel system used for the propulsion of a vessel were approved under section 105 of the repealed regulation.
- (2) For section 104, the plans and specifications of the vessel's gas system are taken to have been approved by an inspector.

### **162 Continuing effect of exemption**

- (1) This section applies if—
  - (a) an existing exemption was given by the chief gas examiner under section 122 of the repealed regulation; and
  - (b) the exemption related to a requirement under the repealed regulation for which there is a corresponding requirement under this regulation.
- (2) On the commencement, the exemption continues to have effect for the purpose of the corresponding requirement.
- (3) However—
  - (a) the chief inspector may cancel the exemption at any time by giving notice to the holder of the exemption; and
  - (b) section 122(3) of the repealed regulation continues in force in relation to the exemption.

## **Division 2                      Other transitional provisions**

### **163      Continued application of Petroleum Act 1923 in relation to drilling of particular wells**

- (1) Sections 57 and 68 do not apply in relation to a prescribed well—
  - (a) that was drilled before the commencement; or
  - (b) if drilling of the well starts before 1 July 2005.
- (2) If sections 57 and 68 do not apply in relation to a prescribed well, the drilling of the well must comply with all relevant requirements under the 1923 Act, as it was before the commencement.

### **164      Audit and inspection fee for 2004–2005 financial year**

The audit and inspection fee payable by a liable person for the financial year starting on 1 July 2004 is the amount that is one-half of the fee for the year provided for under chapter 6, part 2, division 2.

## **Part 2                                      Transitional provisions for the Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2007**

### **165      Person not required to give notice about use of preferred standard for existing activity or thing**

Section 7(4)(b)(i) does not apply to a person, who immediately before commencement of this section, was required to comply with a safety requirement that was a preferred standard under section 7(2) and schedule 1 for an activity or thing.

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**166 Application of provision about competency requirements for drilling rig workers**

Section 54AA does not apply to the operator of a drilling operating plant until 1 January 2009.

**Part 3**

**Transitional provision for the  
Mines and Energy Legislation  
Amendment Regulation (No. 2)  
2008**

**167 Payment of annual rent for a particular period**

- (1) This section applies to annual rent for an authority that would have been payable on or before 30 August 2008 under the unamended provision.
- (2) The proportion of the annual rent relating to the period from the day the annual rent would have been payable under the unamended provision to 31 August 2008, is payable on or before 31 August 2008 with the annual rent for the authority payable on that day under section 145, as amended by the *Mines and Energy Legislation Amendment Regulation (No. 2) 2008*.
- (3) In this section—

*unamended provision* means section 145(3)(b) as in force immediately before the commencement of this section.





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## Part 5 **Transitional provision for the Mines and Energy Legislation Amendment Regulation (No. 2) 2010**

### **169 Confidentiality period for required information lodged before commencement**

- (1) This section applies to required information for a petroleum tenure if the required information is lodged before the commencement of this section.
- (2) Despite section 51(4), the confidentiality period for the required information is the confidentiality period mentioned in section 51(2) of the pre-amended regulation.
- (3) In this section—

*pre-amended regulation* means this regulation as in force immediately before the commencement.

## Part 6 **Transitional provision for Petroleum and Gas (Production and Safety) Amendment Regulation (No. 2) 2010**

### **170 Safety and health fee return for 2010–2011 year**

- (1) A liable person must lodge a return, instead of a safety and health fee return required under section 139(1)—
  - (a) for the financial year ending on 30 June 2010, by 31 August 2010; and
  - (b) for the half year ending on 31 December 2010, by 20 January 2011; and
  - (c) for the quarter year ending on 31 March 2011, by 20 April 2011; and

- (d) for the quarter year ending on 30 June 2011, by 20 July 2011.

Maximum penalty—20 penalty units.

- (2) The provisions of this regulation, other than section 139(1), relating to a safety and health fee return apply for a return under subsection (1) as if the return were a safety and health fee return.
- (3) However, a reference in section 139(2) to the quarter is taken to be a reference to the period to which the return required to be lodged by the liable person under subsection (1) relates.

## **Part 7**

# **Transitional provisions for Petroleum and Other Legislation Amendment Regulation (No. 1) 2011**

### **171 Existing intention to drill a petroleum well or bore**

- (1) This section applies if—
- (a) before the commencement of this section, a petroleum tenure holder intended to drill a well or bore; and
- (b) the holder is required to lodge, but has not lodged, a notice under section 31 for the well or bore.
- (2) Old section 31 continues to apply to the holder for the well or bore.
- (3) In this section—

*old section 31* means section 31 as in force immediately before the commencement of this section.

### **172 Confidentiality period for report about hydraulic fracturing activities lodged before commencement**

- (1) This section applies to a report, about hydraulic fracturing activities carried out by the holder of a petroleum tenure,

lodged under section 553(1)(b) of the Act before the commencement.

(2) Despite section 51(2)(j), the prescribed confidentiality period for the report starts on the commencement and ends on the day that is 5 years after the commencement.

(3) In this section—

*commencement* means commencement of this section.

## **Part 8**

### **Transitional provision for Resources Legislation and Another Regulation Amendment Regulation (No. 1) 2012**

#### **173 Application of s 149H—unpaid royalty interest rate**

(1) This section applies if, immediately before 1 October 2012, an amount of petroleum royalty payable by a petroleum producer is unpaid (the *unpaid petroleum royalty*).

(2) Section 149H, as in force on 1 October 2012, applies to the unpaid petroleum royalty on and from that day.

## **Part 9**

### **Transitional provisions for Natural Resources and Mines Legislation Amendment Regulation (No. 1) 2013**

#### **174 Superseded version of amended mandatory or preferred standard taken to apply until changeover date**

(1) This section applies if there is an amended mandatory standard or an amended preferred standard for a safety requirement.

- (2) A person is taken, until the changeover date, to comply with an amended mandatory standard for a safety requirement if the person complies with the superseded version of the standard.
- (3) For an amended preferred standard for a safety requirement, a person is taken, until the changeover date—
  - (a) to comply with the standard if the person complies with the superseded version of the standard; and
  - (b) to comply with the safety requirement without complying with the standard if the person—
    - (i) gives the chief inspector a notice that the person is not complying with the superseded version of the standard; and
    - (ii) has written evidence showing the level of risk for the activity or thing to which the safety requirement applies is equal to or less than the level of risk that would be achieved by complying with the superseded version of the standard.

*Example of written evidence—*

a report setting out a risk assessment carried out by a competent person

- (4) If the superseded version of an amended mandatory standard or an amended preferred standard for a safety requirement allows a competent person, or any other person, to grant an exemption from, or in any other way change, the requirements stated in the superseded version, the exemption or change may only be granted or made by the chief inspector.

*Example—*

The superseded version of an amended preferred standard might provide that a competent person can grant an exemption from provisions of the superseded standard. For the purpose of this regulation, the exemption can only be granted by the chief inspector.

- (5) If a safety requirement taken to be complied with under this section is inconsistent with an other safety requirement, the other safety requirement prevails to the extent of the inconsistency.

(6) In this section—

*amended mandatory standard* means a mandatory standard whose title is amended at the commencement of this section.

*amended preferred standard* means a preferred standard whose title is amended at the commencement of this section.

*changeover date* means the day that is 6 months after the commencement of this section.

*superseded version*, of an amended mandatory standard or an amended preferred standard, means the version of the amended standard stated in schedule 1, column 1, immediately before the commencement of this section.

## 175 **Superseded version of amended transmission pipeline standard applies for pipeline being constructed**

(1) This section applies if, at the commencement of this section, the holder of a pipeline licence has started, but has not completed, construction of a pipeline in the area of the licence.

(2) For the pipeline being constructed, the holder, or a person acting for the holder, is taken to comply with the amended transmission pipeline standard for a safety requirement if the person complies with the superseded version of the standard.

(3) In this section—

*amended transmission pipeline standard* means the transmission pipeline standard, as amended at the commencement of this section.

*superseded version*, of the amended transmission pipeline standard, means the version of the amended transmission pipeline standard stated in schedule 1, part 2, column 1, immediately before the commencement of this section.

*transmission pipeline standard* means the standard stated in schedule 1, part 2, column 1 immediately before the commencement of this section.

## **Part 10**                      **Transitional provision for Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2013**

### **176**      **Estimation and publication of safety and health costs for 2013–14 financial year**

- (1) The chief executive must, for the 2013–14 financial year, prepare a costs estimate of the safety and health operating costs for each relevant category of liable person for the year.
- (2) The costs estimate must be published on the department’s website on, or as soon as practicable after, the commencement.
- (3) This section applies despite section 134AA(2).
- (4) In this section—

*2013–14 financial year* means the financial year ending 30 June 2014.

## **Part 11**                      **Transitional provision for Petroleum Legislation Amendment Regulation (No. 1) 2015**

### **177**      **Particular samples not required to be kept**

- (1) This section applies to the holder of a petroleum tenure if, before the commencement, the holder was given an exemption under section 47(4), as in force immediately before the commencement, from having to keep a sample from a coal seam gas well.
- (2) The holder is not required to keep the sample under section 47(1).

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## Part 12

# Transitional provisions for Revenue Legislation Amendment Regulation (No. 1) 2016

### 178 Definitions for part

In this part—

*new*, in relation to a provision of this regulation, means the provision as in force on the commencement.

*pre-commencement decision* means a petroleum royalty decision made before the commencement.

*previous*, in relation to a provision of this regulation, means the provision as in force immediately before the commencement.

### 179 Existing applications for petroleum royalty decisions

- (1) This section applies if—
- (a) before the commencement, a petroleum producer made an application (the *pre-commencement application*) for a petroleum royalty decision for petroleum—
    - (i) in compliance with a request under previous section 148C(1)(b) by the Minister; or
    - (ii) under previous section 148D; and
  - (b) the application relates to either—
    - (i) for petroleum produced or that will be produced under a petroleum tenure or 1923 Act petroleum tenure—an amount of petroleum to be disposed of on or after the commencement; or
    - (ii) for petroleum produced or that will be produced other than under a petroleum tenure or 1923 Act petroleum tenure—an amount of petroleum to be produced on or after the commencement; and

- (c) on the commencement, the application had not been decided.
- (2) To the extent the application relates to petroleum disposed of or produced before the commencement—
  - (a) the application must be decided under previous chapter 6, part 2, division 4; and
  - (b) previous chapter 6, part 2, division 4 continues to apply in relation to the application and any decision on the application as if the *Revenue Legislation Amendment Regulation (No. 1) 2016* had not been made.
- (3) To the extent the application relates to petroleum to be disposed of or produced on or after the commencement—
  - (a) a separate application for a petroleum royalty decision is taken to have been made under new section 148B for that petroleum; and
  - (b) the separate application must be decided under new chapter 6, part 2, division 4; and
  - (c) that division applies in relation to the separate application and any decision on the application.

*Example of the operation of subsections (2) and (3)—*

An application made before the commencement relates to petroleum that has been disposed of or produced before the commencement and petroleum to be disposed of or produced after the commencement. The Minister must make 2 separate decisions for the application.

In relation to petroleum disposed of or produced before the commencement, the application must be decided under previous chapter 6, part 2, division 4 and those provisions continue to apply in relation to the decision.

In relation to petroleum disposed of or produced after the commencement, a separate application is taken to have been made under section 148B. The decision for that application must be made under new section 148B, and new chapter 6, part 2, division 4 applies in relation to the decision.

- (4) Anything done or existing in relation to the pre-commencement application is taken to have been done or existing in relation to the separate application.



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## 180 Existing petroleum royalty decisions

- (1) This section applies to a pre-commencement decision relating to the following petroleum (the *relevant petroleum*)—
  - (a) if the petroleum is produced or will be produced under a petroleum tenure or 1923 Act petroleum tenure—an amount of petroleum to be disposed of on or after the commencement;
  - (b) if the petroleum is produced or will be produced other than under a petroleum tenure or 1923 Act petroleum tenure—an amount of petroleum to be produced on or after the commencement.
- (2) To the extent the decision relates to relevant petroleum, the decision is taken to have been made under new chapter 6, part 2, division 4.
- (3) However, the petroleum producer for the petroleum can not apply for a review, under section 148J(1)(a), of the decision.

*Example of the operation of subsections (2) and (3)—*

A petroleum royalty decision is made under previous chapter 6, part 2, division 4 that states a method of working out a component of the wellhead value of both relevant petroleum, and petroleum produced or disposed of before the commencement.

To the extent the decision relates to relevant petroleum, the decision may be applied after its expiry under section 148F, and may be amended under section 148H or 148K. The producer must comply with its obligations to notify the Minister under section 148G, and may also seek a review of a decision to amend the petroleum royalty decision under section 148J(1)(b), in relation to the relevant petroleum.

However, if the decision is amended in relation to petroleum produced or disposed of before the commencement, the previous provisions of this regulation apply in relation to the amendment of the decision. This means, for example, the producer can not seek a review of the decision to amend the petroleum royalty decision for the petroleum produced before the commencement under section 148J(1)(a).

- (4) The Minister must, within 60 days after the commencement, give the petroleum producer for the relevant petroleum a notice complying with subsection (5).
- (5) The notice must identify any facts or circumstances stated in the pre-commencement decision that the Minister considers

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would have a direct or indirect impact on the decision, in relation to the relevant petroleum, if the fact or circumstance were to change.

- (6) Each fact or circumstance mentioned in subsection (5) that is identified in the notice is taken to be a stated factor for the decision, in relation to the relevant petroleum.

### **181 Review by Minister of pre-commencement decisions on or after right to amend day**

- (1) This section applies to a pre-commencement decision only if the Minister has not amended the pre-commencement decision under new section 148H(1)(a), (b) or (d).
- (2) The Minister may review the pre-commencement decision on or after the day (the *right to amend day*) that is 5 years after the day liability for petroleum royalty for petroleum the subject of the pre-commencement decision first became payable by the producer.
- (3) In reviewing the decision, the Minister may—
  - (a) consider any matter mentioned in section 148D(b) or (c) as if that matter related to the review; and
  - (b) in relation to a component of the wellhead value of the petroleum, decide any matter mentioned in section 148E(2), (4) or (5) as if it related to the review; and
  - (c) amend the pre-commencement decision.
- (4) A pre-commencement decision that is amended under this section is the *new decision*.
- (5) The new decision—
  - (a) applies only in relation to petroleum disposed of or produced on or after the right to amend day; and
  - (b) is taken to be a petroleum royalty decision that has been amended under section 148H.
- (6) The Minister must give the producer a notice for the new decision stating—

- (a) that the Minister has amended the pre-commencement decision; and
- (b) how the pre-commencement decision has been amended; and
- (c) the reasons why the Minister has amended the pre-commencement decision.

## Part 13

# Transitional provision for Mineral and Energy Resources (Common Provisions) Regulation 2016

### 182 Application of joint interaction management plan provisions

- (1) The pre-amended regulation continues to apply in relation to the following for a period of 6 months after the commencement as if the joint interaction management plan provisions had not commenced—
  - (a) an operating plant, or the area of a petroleum tenure in which an operating plant is situated, mentioned in the pre-amended Act, section 386(1)(a);
  - (b) an operating plant, the area of a coal or oil shale mining lease (the *lease area*) in which an operating plant is situated, or an area adjacent to the lease area, mentioned in the pre-amended Act, section 705(a);
  - (c) an activity under an authority to prospect (csg) carried out in an overlapping area the subject of an authority to prospect (csg) within the meaning of the Common Provisions Act, section 103 if coal mining operations under an exploration permit (coal), mineral development licence (coal) or mining lease (coal) within the meaning of the Common Provisions Act, section 103 are also carried out in the overlapping area.
- (2) In this section—

***joint interaction management plan provisions*** means sections 72B, 72C and 72D.

***pre-amended Act*** means the Act as in force immediately before the commencement of the *Water Reform and Other Legislation Amendment Act 2014*.

***pre-amended regulation*** means this regulation as in force immediately before the commencement.

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## Schedule 12 Dictionary

### section 3

**bore** means a water observation bore or a water supply bore.

**coal mining operations** see the Coal Mining Safety and Health Act, schedule 3.

**component**, for chapter 6, part 2, division 4, see section 148A.

**condensate** means liquid formed as a result of condensation caused by reduced pressure and temperature of hydrocarbons in a gaseous state in a natural underground reservoir.

**disposes of**, for petroleum, see section 147(2).

**drilling operating plant** means an operating plant used for any of the following—

- (a) to drill a prescribed well;
- (b) to complete, maintain or work on a prescribed well for the production of petroleum;
- (c) to plug and abandon a prescribed well.

**earlier return period** see section 148A.

**gas fuel system** means a gas system that supplies gas as a fuel to an engine.

**hydraulic fracturing activities** means a form of stimulation that involves specially engineered fluids being pumped at a high pressure and rate into a reservoir for the purpose of opening fractures.

**petroleum product** means any of the following—

- (a) coal seam gas;
- (b) condensate;
- (c) crude oil;
- (d) LPG;

(e) processed natural gas.

***petroleum royalty decision*** see section 148E(3).

***prescribed well*** means—

- (a) a petroleum well; or
- (b) a well under the 1923 Act.

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

***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 chapter 6, part 2, division 4, subdivision 2, see section 148A.

***royalty estimate notice*** see section 149B(1).

***safety requirement*** means a safety requirement prescribed under section 669 of the Act.

***stated factor*** see section 148E(7).

***vessel*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***wellhead value***, of petroleum, means the wellhead value of the petroleum as worked out under section 148.