



Queensland

# Revenue Legislation Amendment Regulation (No. 1) 2016

## Subordinate Legislation 2016 No. 25

made under the

*Mineral Resources Act 1989*

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

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Revenue Legislation Amendment Regulation (No. 1) 2016*.

## **Part 2 Amendment of Mineral Resources Regulation 2013**

### **2 Regulation amended**

This part amends the *Mineral Resources Regulation 2013*.

### **3 Amendment of s 56 (Definitions for pt 5)**

Section 56, definition *earlier return period*—  
*omit, insert—*

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

- (a) makes the decision under section 63; or
- (b) amends the decision under section 65 or 68.

### **4 Amendment of s 60 (Application for gross value royalty decision)**

- (1) Section 60(2), ‘make an application to the Minister under this section’—

*omit, insert—*

apply to the Minister

- (2) Section 60(3)(b)—

*omit, insert—*

- 
- (ab) state why the holder is seeking the gross value royalty decision; and
- (b) state a proposed gross value of the mineral, or a proposed method or formula for working out the gross value of the mineral, for 1 or more of the following—
- (i) a particular transaction;
  - (ii) a particular class of transaction;
  - (iii) some or all transactions within a particular period; and

*Examples of a method or formula for working out the gross value of a mineral—*

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

- (3) Section 60(3)(ab) to (c)—

*renumber* as section 60(3)(b) to (d).

- (4) Section 60(4)—

*omit, insert—*

- (4) Without limiting subsection (3)(d), the application may relate to 1 or more return periods, regardless of whether any of the return periods starts or ends before the application is made.

## **5 Amendment of s 61 (Gross value royalty decision on Minister's own initiative)**

- (1) Section 61(1), 'decide to'—

*omit.*

- (2) Section 61(2)—

*omit, insert—*

- (2) Subsection (1)(a) applies whether or not either or both of the following have happened—

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- (a) a transaction relating to the mineral;
  - (b) the lodgement of a royalty return for the period.
- (3) If the Minister proposes to make a gross value royalty decision for a mineral on the Minister's own initiative, the Minister must—
- (a) give a notice to the holder for the mineral that the Minister proposes to make the decision; and
  - (b) invite the holder to make submissions about the proposed decision within—
    - (i) 30 days after the day the Minister gives the holder the notice; or
    - (ii) if the Minister approves a longer period—the longer period.

## 6 Replacement of s 62 (Considerations for gross value royalty decisions)

Section 62—

*omit, insert—*

### 62 Considerations in making gross value royalty decision

In making a gross value royalty decision for a mineral (the *relevant mineral*), the Minister—

- (a) must consider—
  - (i) if the holder for the relevant mineral applied for the decision under section 60—the matters stated in the holder's application; and
  - (ii) any submissions about the proposed decision made by the holder within the period mentioned in section 61(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 a mineral of a similar kind to the relevant mineral has been sold or disposed of in an arms-length transaction to a person other than a relevant entity for the holder;
  - (ii) the amount for which a product made using the relevant mineral, or a mineral of a similar kind, has been sold or disposed of;
  - (iii) how the value of the relevant mineral can be adjusted to reflect changes to the market value of the mineral;
  - (iv) the expenses incurred or likely to be incurred by the holder for the relevant mineral when selling or disposing of the mineral in an arms-length transaction to a person other than a relevant entity for the holder;
  - (v) the nature of the relationship between the holder for the relevant mineral and the entity to which the relevant mineral has been or will be sold or disposed of, or that has used or will use the mineral;
  - (vi) the period for which the gross value royalty decision, or aspects of the decision, will apply;
  - (vii) the need for any future adjustment of the gross value royalty decision or aspects of the decision;
  - (viii) any other relevant matter.

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## 7 Amendment of s 63 (Gross value royalty decisions)

(1) Section 63(2)—

*omit, insert—*

(2) The Minister must decide—

- (a) the gross value of the mineral; or
- (b) the method or formula for working out the gross value of the mineral.

(2) Section 63(4)—

*omit, insert—*

(4) Without limiting the scope of a gross value royalty decision, a gross value royalty decision may—

- (a) apply for a particular period, including, for example, an earlier return period starting or ending before the decision is made; and
- (b) provide for different gross values for the mineral to which the decision applies for particular periods, transactions or classes of transactions; and
- (c) provide for different methods or formulas for working out the gross values of the mineral for particular periods, transactions or classes of transactions.

(4A) Subsection (4B) applies if the holder for a mineral applies for a gross value royalty decision for the mineral.

(4B) To remove any doubt, it is declared that the Minister may decide the gross value of the mineral, the method or formula for working out the gross value of the mineral or the period, transaction or class of transaction for which the decision applies (each a *relevant matter*), even if—

- 
- (a) the relevant matter is not stated in the holder's application; or
- (b) the way in which the relevant matter is stated in the holder's application is different from the way the relevant matter is stated in the decision.
- (3) Section 63(5)(b)(ii), 'basis'—  
*omit, insert—*  
method or formula
- (4) Section 63(5)(c) and (d)—  
*omit, insert—*
- (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 70, the Minister will assess or reassess the amount of royalty payable for the earlier return period.

*Note—*

See also sections 331A and 331B of the Act.

## **8 Amendment of s 64 (Obligation to notify incorrect gross value royalty decision)**

- (1) Section 64(2), '30 days'—  
*omit, insert—*  
60 days
- (2) Section 64(2)(a)(i) and (ii), before 'decision'—  
*insert—*  
existing

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**9 Amendment of s 65 (Minister may amend gross value royalty decision)**

(1) Section 65(1)—

*omit, insert—*

(1) The Minister may amend a gross value royalty decision (an *earlier decision*) for a mineral if the Minister is reasonably satisfied that the earlier decision was not, or is no longer, correct.

(2) Section 65(2), from ‘If the Minister’ to ‘applying for’—

*omit, insert—*

If the Minister proposes to amend the earlier decision in a way that increases the gross value of

(3) Section 65(2)(a)—

*omit, insert—*

(a) give notice to the holder for the mineral that the Minister proposes to make the amendment; and

(4) Section 65(2)(b)(i), ‘the period of 28 days’—

*omit, insert—*

30 days

(5) Section 65(3)—

*omit, insert—*

(3) In amending the earlier decision, the Minister—

(a) may consider any of the matters mentioned in section 62 as if they related to making the amendment; and

(b) if a submission about the proposed amendment is made by the holder within the period mentioned in subsection (2)(b) for the submission—must consider the submission.

(6) Section 65(4)—

*omit, insert—*

- (4) The amendment of an earlier decision under subsection (1) must, for a return period for which the decision applies, be made within 5 years after the day that royalty became payable for that return period.
- (7) Section 65(5), from ‘However’ to ‘existing decision was’—

*omit, insert—*

Despite subsection (4), the Minister may amend an earlier decision at any time in a way that increases the gross value of a mineral if the Minister reasonably believes that before the earlier decision was

- (8) Section 65(6)—

*omit, insert—*

- (6) The Minister can not be compelled to amend the earlier decision in a way that decreases the gross value applying for a mineral under the decision if, for a return period, royalty was payable for that period.

## **10 Amendment of s 66 (Notice of amendment)**

- (1) Section 66, ‘existing gross value royalty’—

*omit, insert—*

earlier

- (2) Section 66, ‘existing decision’—

*omit, insert—*

earlier decision

- (3) Section 66(d) and note—

*omit, insert—*

- (d) how the earlier decision has been amended;  
and

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- (e) if the amendment applies for an earlier return period—that the Minister will reassess the amount of royalty payable for the earlier return period.

*Note—*

For reassessment of royalty payable, see section 331B of the Act and subdivision 4.

### **11 Amendment of s 67 (Review application)**

Section 67(1)(a) and (3), ‘made under section 63’—  
*omit.*

### **12 Amendment of s 68 (Review decision)**

Section 68(3)—  
*omit, insert—*

- (3) In deciding the review application, the Minister may consider any matter mentioned in section 62 as if that matter related to the review.

### **13 Amendment of s 69 (Notice of review decision)**

(1) Section 69(c)—  
*omit, insert—*

- (c) if the original decision has been amended—how the decision has been amended; and

(2) Section 69, note, after ‘see’—  
*insert—*

section 331B of the Act and

(3) Section 69—  
*insert—*

- (2) In this section—

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*original decision* see section 68(1).

## 14 Replacement of ss 70 and 71

Sections 70 and 71—

*omit, insert—*

### **70 Minister must reassess amount of particular royalty payable**

- (1) This section applies if—
- (a) a gross value royalty decision (the *unamended decision*), or an amendment under section 65 or 68 of a gross value royalty decision, applies for a mineral for an earlier return period; and
  - (b) the Minister has made an assessment of the amount of royalty payable for the mineral by the holder for the period without having regard to the unamended decision or the amendment.

*Note—*

If an assessment of the royalty payable for the mineral 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 331A of the Act.

- (2) The Minister must reassess, under section 331B of the Act, the amount of royalty payable for the mineral by the holder 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 331B(4) of the Act, has expired in relation to an earlier return period mentioned in subsection (2).
- (4) For the purposes of section 331B(5)(b) of the Act, a reassessment required under subsection (2)



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## 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(1)(a) that the petroleum could reasonably be expected to realise; or
- (b) an expense, or an amount contributing to an expense, under section 148(2)(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

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- (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.

*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) disposed of by the producer; or
  - (b) if section 147(1)(b) applies to the petroleum—produced by the producer.
- (2) The application must—
  - (a) be in writing; and
  - (b) be lodged at the office of the chief executive; and
  - (c) state why the petroleum producer is seeking the petroleum royalty decision; and
  - (d) 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
- (e) state the proposed period for which the petroleum royalty decision is to apply.
- (3) Without limiting subsection (2)(e), the application may relate to 1 or more royalty return periods, regardless of whether any of the royalty 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

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- (d) an expense mentioned in section 148(1)(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(1)(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(1)(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(1)(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 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

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- 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

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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

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- (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
  - (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*).
- (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

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- 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 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.

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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—
    - (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

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- (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.

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### **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

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- (b) state the reasons for requesting the review;  
and
  - (c) be lodged at the office of the chief executive.
- (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
  - (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

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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—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

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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—
  - (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.

## 17 Insertion of new ch 7, pt 12

Chapter 7—

*insert—*

### **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—

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- (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.

## **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;

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- (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 would have a

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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

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- (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.

## 18 Amendment of sch 12 (Dictionary)

- (1) Schedule 12, definition *petroleum royalty decision*—  
*omit.*
- (2) Schedule 12—  
*insert—*
  - earlier return period* see section 148A.
  - petroleum royalty decision* see section 148E(3).
  - relevant entity*, for chapter 6, part 2, division 4, subdivision 2, see section 148A.
  - stated factor* see section 148E(7).
- (3) Schedule 12, definition *wellhead value*, after ‘disposed of’—  
*insert—*
  - or, if section 147(1)(b) applies to the petroleum, produced

ENDNOTES

- 1 Made by the Governor in Council on 31 March 2016.
- 2 Notified on the Queensland legislation website on 1 April 2016.
- 3 The administering agency is the Queensland Treasury.

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