

MN301

MINING ACT 1978

MINING AMENDMENT REGULATIONS (No. 4) 1997

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Mining Amendment Regulations (No. 4) 1997*.

Principal regulations

2. In these regulations the *Mining Regulations 1981** are referred to as the principal regulations.

[* Reprinted as at 18 March 1996.

For amendments to 1 September 1997, see 1996 Index to Legislation of Western Australia, Table 4, p. 193, and Gazette 4 April 1997.]

Regulation 85 amended

3. (1) Regulation 85 of the principal regulations is amended by inserting after paragraph (a) the following paragraph —

“ (aa) “quarter” means any one of the 3 monthly periods of any year ending on 31 March, 30 June, 30 September or 31 December; ”.

- (2) Regulation 85 (b) of the principal regulations is amended by inserting before “means —” the following —

“ other than gold ”.

Regulation 85A amended

4. (1) Regulation 85A (1) of the principal regulations is amended by inserting after “any mineral” the following —

“ other than gold ”.

- (2) Regulation 85A of the principal regulations is amended by inserting after subregulation (1) the following subregulation —

“ (1a) The holder of a mining tenement, and the applicant for a mining tenement in respect of any land, shall within 30 days of the expiry of each month during which gold metal is to be regarded because of regulation 86AA as having been produced from gold bearing material produced or obtained from the mining tenement or land furnish the Director General of Mines with a monthly production report regarding that month in the form No. 27A in the First Schedule. ”.

- (3) Regulation 85A (2) of the principal regulations is amended by inserting after “subregulation (1)” the following —

“ or (1a) ”.

Regulation 85B amended

5. Regulation 85B (1) (e) of the principal regulations is amended by inserting before “the rate of royalty” the following —

“ in the case of a mineral other than gold, ”.

Table to regulation 86 amended

6. The Table to regulation 86 of the principal regulations is amended by inserting after "Other minerals" at the end of that Table the following —

" , except gold " .

Regulation 86AA inserted

7. After regulation 86 of the principal regulations, the following regulation is inserted —

"

Rates of royalty in respect of gold

86AA. (1) When gold metal is produced from gold bearing material that was produced or obtained from a mining tenement, royalties shall be paid by the holder of, or applicant, for the mining tenement.

(2) No royalty is payable in respect of gold metal produced before the commencement of the period referred to in subregulation (3).

(3) The rate of royalty payable for gold metal produced during the period commencing on 1 July 1998 and ending on 30 June 2000 is 1.25% of the realized value of the gold metal produced.

(4) Subject to subregulation (5), the rate of royalty payable for gold metal produced after 30 June 2000 is 2.5% of the realized value of the gold metal produced.

(5) If, during the period commencing on 1 July 2000 and ending on 30 June 2005, the average gold spot price for a quarter is less than \$450 per ounce in Australian currency, the rate of royalty payable for gold metal produced during that quarter is 1.25% of the realized value of the gold metal produced.

(6) Despite anything in this regulation, no royalty is payable in respect of the first 2 500 ounces of gold metal produced during a financial year from gold bearing material produced or obtained from the same gold royalty project.

(7) The realized value of gold metal produced shall be calculated for each month in the relevant quarter by multiplying the total gold metal produced during that month by the average of the gold spot prices for that month.

(8) If gold bearing material is delivered to a refinery within 3 months after it, or gold bearing material from which it was produced, was taken from the ground —

- (a) gold metal is to be regarded as being produced from the gold bearing material at the time of delivery to the refinery; and
- (b) the amount of gold metal that is to be regarded as being produced from gold bearing material delivered within a particular period is to be —
 - (i) the amount actually produced as ascertained by the Director General of Mines from the deliverer after that amount has been verified by the refiner; or
 - (ii) the amount determined by the Director General of Mines, after consultation with the deliverer, to be a reasonable estimate of the gold metal content.

(9) If gold bearing material is produced or obtained in a form that is acceptable for delivery to a refinery but subregulation (8) does not apply —

- (a) gold metal is to be regarded as being produced from the gold bearing material at the time that a determination is made under paragraph (b) as to the amount of gold metal that the gold bearing material contained; and

- (b) the amount of gold metal that is to be regarded as being produced from the gold bearing material is to be the amount determined by the Director General of Mines, after consultation with the person liable to pay the royalty, to be a reasonable estimate of the gold metal content.

(10) If —

- (a) after an amount has been determined under subregulation (8) (b) (ii) to be a reasonable estimate of the gold metal content of gold bearing material delivered to a refinery, the Director General of Mines is satisfied by information given by the deliverer that the amount of gold metal actually produced from that gold bearing material differs from the estimated amount; or
- (b) after an amount has been determined under subregulation (9) (b) to be a reasonable estimate of the gold metal content of gold bearing material, the Director General of Mines is satisfied by information given by the deliverer that the gold bearing material was delivered to a refinery and the amount of gold metal actually produced from that gold bearing material differs from the estimated amount,

any necessary adjustment is to be made and may be taken into account in the next royalty payment made after that information is given to the Director General of Mines.

(11) In this regulation —

“deliverer” means the person who produces the gold bearing material that is delivered to a refinery;

“gold bearing material” is material of any kind containing gold;

“gold metal” means gold that is at least 99.5% pure;

“gold royalty project” means —

- (a) subject to subregulation (12), the mining tenement or, if there is more than one, all mining tenements from which anyone produces or obtains gold bearing material that is treated or processed at a common —

- (i) treatment facility; or

- (ii) combination of treatment facilities;

or

- (b) such other arrangement for producing, obtaining or treating of gold bearing material as is designated by the Minister under subregulation (13) (a);

“gold spot price” means —

- (a) the price fixed on the London Bullion Market for gold metal and known as the “London PM Fix”, as converted to Australian currency by using the daily representative rate used by the Reserve Bank of Australia; or

- (b) such other price as is determined by the Minister under subregulation (13) (b);

“mining tenement” includes land the subject of an application for a mining tenement;

“refiner” means the operator of a refinery;

“refinery” means a place where gold metal is produced;

“treatment facility” means any plant at which gold bearing material is treated or processed, but does not include a refinery.

(12) The Director General of Mines may approve in writing of mining tenements being treated as separate gold royalty projects, as specified in the approval, if satisfied that they are not all held by the same person or by persons between whom the Director General of Mines considers there to be a connection such that the mining tenements can fairly be treated as forming part of the same gold royalty project.

(13) The Minister may, by notice published in the *Gazette* —

- (a) designate an arrangement for producing, obtaining or treating gold bearing material for the purposes of paragraph (b) of the definition of "gold royalty project" in subregulation (11), or amend or revoke any such designation; or
- (b) determine a price for the purposes of paragraph (b) of the definition of "gold spot price" in subregulation (11), or amend or revoke any such determination.

Regulation 86A repealed and a regulation substituted

8. Regulation 86A of the principal regulations is repealed and the following regulation is substituted —

"

Time for payment of royalties to Department

86A. Royalties shall be paid to the Department at Perth in respect of a mineral within 30 days after the end of —

- (a) the quarter during which the relevant amount of the mineral was produced or obtained; or
- (b) the quarter during which —
 - (i) in the case of gold, the gold metal is to be regarded because of regulation 86AA as having been produced;
 - (ii) in the case of any other mineral the royalty for which is based on realized value, the value of the mineral (or any of that value) was realized.

"

Regulation 86C repealed

9. Regulation 86C of the principal regulations is repealed.

Regulation 87 amended

10. Regulation 87 of the principal regulations is amended by inserting after "regulation 86" in both places where it occurs the following —

" or 86AA "

First Schedule amended

11. (1) The First Schedule to the principal regulations is amended under the heading "Schedule of Forms" by deleting "27. Monthly Production Report." and substituting the following —

"

- 27. Monthly Mineral (Excluding Gold) Production Report.
- 27A. Monthly Gold Production Report.

"

(2) Form No. 27 in the First Schedule to the principal regulations is deleted and the following forms are substituted —

Form 27

WESTERN AUSTRALIA
Mining Act 1978
[Reg. 85A (1)]

MONTHLY MINERAL (EXCLUDING GOLD) PRODUCTION REPORT

(Please Note! A separate report is required for each operating mining tenement.
Complete and furnish to Director General of Mines within 30 days of expiry of month.)

Report for month of Year

Mining Tenement No

Holder

Mineral Field

District Project

Material Mined			Mineral Produced/Sold		
Mineral Mined Primary Description (e.g. Clay)	Mineral Type Description (e.g. Kaolin)	Quantity (tonnes)	Quantity (tonnes)	Sales Value (A\$)	End Use or Uses of Mineral (where known)

I certify that the information supplied in this report is a true statement of all production for the period stated.

Dated

Signed
(Holder/Applicant)

Form 27A

WESTERN AUSTRALIA
 Mining Act 1978
 [Reg. 85A (1a)]

MONTHLY GOLD PRODUCTION REPORT

(Please Note! Separate report required for each gold royalty project. Complete and furnish to Director General of Mines within 30 days of expiry of month.)

Report for month of Year

Mining Tenement(s) No(s)

Holder

Mineral Field

District Project

MATERIAL TREATED	Tonnes
Ore	
Sands	
Slimes	
Tailings	
Concentrates	
Other	

METAL PRODUCED*	Ounces
Gold Metal	
Silver Metal (By-product)	

(* Include metal that is to be regarded because of regulation 86AA as having been produced.)

I certify that the information supplied in this report is a true statement of all production for the period stated.

Dated

Signed
 (Holder/Applicant)

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.