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**MINERALS AND PETROLEUM**

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MP301\*

Mining Act 1978

**Mining Amendment Regulations (No. 6) 2001**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

**1. Citation**

These regulations may be cited as the *Mining Amendment Regulations (No. 6) 2001*.

**2. Commencement**

These regulations come into operation on 1 January 2002.

**3. The regulations amended**

The amendments in these regulations are to the *Mining Regulations 1981*\*.

[\* Reprinted as at 21 July 2000.

For amendments to 4 December 2001 see 2000 Index to Legislation of Western Australia, Table 4, p. 230, and Gazette 2 February, 27 April, 3 August, 17 August and 28 September 2001.]

**4. Regulation 85 amended**

Regulation 85(1) is amended as follows:

- (a) by deleting the definition of “realised value”;
- (b) after the definition of “related corporation” by deleting the full stop and inserting a semicolon;
- (c) by inserting, in the appropriate alphabetical positions, the following definitions —

“

**“allowable deductions”**, in relation to a mineral,  
means —

- (a) the amount, in Australian currency, of any costs in transporting the mineral, in the form in which it is first sold, incurred after the shipment date by the person liable to pay the royalty for the mineral; and
- (b) if the mineral is not exported from Australia, the price, in Australian currency, paid or to

be paid by the person liable to pay the royalty for the mineral, for packaging materials used in transporting the mineral, in the form in which it is first sold;

**“gross invoice value”**, in relation to a mineral, means the amount, in Australian currency, obtained by multiplying the quantity of the mineral, in the form in which it is first sold, for which payment is to be made (as set out in invoices relating to the sale) by the price for the mineral in that form (as set out in those invoices);

**“purchaser”**, in relation to a mineral, means the person to whom the mineral is first sold;

**“royalty value”**, in relation to a mineral other than gold, means the gross invoice value of the mineral less any allowable deductions for the mineral;

**“shipment date”**, in relation to a mineral, means —

- (a) if the mineral is exported from Australia, the day on which the aircraft or ship transporting the mineral first leaves port in this State; or
- (b) if the mineral is not exported from Australia, the day on which the mineral is first loaded on a vehicle for transport to the purchaser;

**“sold”** includes transferred, shipped or otherwise disposed of, and **“sale”** has a corresponding meaning.

”.

**5. Regulation 85AA amended**

Regulation 85AA(1) is amended by deleting “realised” and inserting instead —

“ royalty ”.

**6. Regulation 85AB inserted**

After regulation 85AA the following regulation is inserted —

“

**85AB. Conversion to Australian currency**

- (1) In this regulation —

**“RBA rate”** means the daily representative rate used by the Reserve Bank of Australia.

- (2) Where, for the purposes of determining the gross invoice value of, or allowable deductions for, a mineral, it is necessary to convert an amount or a price to Australian currency, the conversion is to be calculated using the average of the RBA rates for the quarter in which the shipment date for the mineral occurred.

- (3) Where, for the purposes of the definition of “gold spot price” in regulation 86AA(11), it is necessary to convert a price to Australian currency, the conversion is to be calculated —
- (a) using the RBA rate for the day on which the price was fixed; or
  - (b) if there is no RBA rate for that day, using the last RBA rate before that day.

”.

## 7. Regulation 85B amended

Regulation 85B(1) is amended as follows:

- (a) in paragraph (b) by deleting “, transfer, shipment or other disposal”;
- (b) in paragraph (c) by deleting “realised” and inserting instead —  
“ royalty ”;
- (c) by deleting paragraph (d) and inserting the following paragraphs instead —  
“  
  - (d) the gross invoice value of the mineral, when it was paid, and any allowable deductions for the mineral;
  - (da) in the case of a royalty part-payment under regulation 86A, the method of calculating the royalty part-payment and details of the amount of the relevant part-payment of gross invoice value and when it was paid;

”.

## 8. Regulation 86 amended

The Table to regulation 86 is amended as follows:

- (a) in the heading to column 2 by deleting “realised” and inserting instead —  
“ royalty ”;
- (b) in the items relating to the minerals listed in the Table to this paragraph by deleting “realised” in each place where it occurs and inserting instead —  
“ royalty ”;

**Table**

Cobalt	Tantalum
Copper	Tin
Garnet	Vanadium
Ilmenite	Zinc
Lead	

- (c) in the item relating to any other mineral by deleting “realised” in both places where it occurs and inserting instead —  
“ royalty ”.

**9. Regulation 86AA amended**

- (1) Regulation 86AA(3), (4), (5) and (7) are each amended by deleting “realised” and inserting instead —  
“ royalty ”.
- (2) Regulation 86AA(11) is amended in paragraph (a) of the definition of “gold spot price” by deleting “by using the daily representative rate used by the Reserve Bank of Australia”.

**10. Regulation 86A replaced**

Regulation 86A is repealed and the following regulation is inserted instead —

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**86A. Payment of royalties**

- (1) Royalties for a mineral shall be paid to the Department at Perth.
- (2) Subject to this regulation, royalties for a mineral shall be paid within 30 days after the end of the quarter during which the relevant amount of the mineral was produced or obtained.
- (3) In the case of gold metal, royalties shall be paid within 30 days after the end of the quarter during which the gold metal is to be regarded because of regulation 86AA as having been produced.
- (4) In the case of nickel, or a nickel by-product the royalty for which is not based on royalty value, royalties shall be paid within 30 days after the end of the quarter during which the nickel or nickel by-product was sold.
- (5) In the case of a mineral the royalty for which is based on royalty value, royalties shall, subject to subregulation (6), be paid within 30 days after the end of the quarter during which the gross invoice value of the mineral (or any part of that value) was paid by the purchaser of the mineral.
- (6) If the gross invoice value of a mineral is paid in part-payments, royalties for the mineral may be paid in part-payments in accordance with subregulation (7).
- (7) For the purposes of subregulation (6), a royalty part-payment for a mineral —
  - (a) shall be paid within 30 days after the end of the quarter during which a part-payment of the gross invoice value of the mineral was paid by the purchaser of the mineral; and
  - (b) subject to subregulation (8), shall bear the same proportion to the total royalties payable for the

mineral as the part-payment referred to in paragraph (a) bears to the gross invoice value of the mineral.

- (8) If the Director General of Mines is satisfied by information given by the person liable to pay the royalty that the amount of a royalty part-payment is incorrect because of a miscalculation of gross invoice value or allowable deductions or for any other reason, any necessary adjustment is to be made and may be taken into account in the next royalty part-payment paid after the information is given to the Director General of Mines.

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#### **11. Regulation 87 amended**

- (1) Regulation 87(1) is amended as follows:

- (a) by deleting “realised” in the first place where it occurs and inserting instead —

“ royalty ”;

- (b) in paragraph (a) by deleting “, transferred or otherwise disposed of or the costs deducted to calculate the realised value by the person liable to pay the royalty” and inserting instead —

“

or the allowable deductions used to calculate the royalty value

”;

- (c) in paragraph (a) by deleting “, transfer or disposal”;
- (d) in paragraph (a) by deleting “, transferred or otherwise disposed of” in the second place where it occurs;
- (e) in paragraph (a) by deleting “, transfer or other disposal”;
- (f) in paragraph (b) by deleting “, transfer or other disposal” in the 3 places where it occurs;
- (g) in paragraph (b) by deleting “, transferred or otherwise disposed of”.

- (2) Regulation 87(2) is amended by deleting “realised” and inserting instead —

“ royalty ”.

#### **12. Regulation 87B amended**

Regulation 87B(1) is amended as follows:

- (a) in paragraph (a)(i) by deleting “quality” and inserting instead —

“ quantity ”;

- (b) by deleting paragraph (a)(ii) and inserting the following subparagraph instead —

“

- (ii) each sale of that mineral, including time, destination, value and quantity of the sale;

”;

- (c) by deleting “, shipment, transfer or other disposal”.

**13. Saving**

Despite the amendments effected by these regulations, the *Mining Regulations 1981* as in force immediately before the commencement of these regulations continue to apply in relation to the determination and payment of, and returns in respect of, royalties for minerals first sold, transferred or otherwise disposed of before that commencement.

By Command of the Lieutenant-Governor  
and deputy of the Governor,

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