Western Australia

Mining Act 1978

Mining Amendment Regulations (No. 3) 2023

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Contents

1. Citation 1

2. Commencement 1

3. Regulations amended 1

4. Regulation 85 amended 1

5. Regulation 85B amended 2

6. Regulation 86 amended 2

7. Regulation 86AA amended 9

8. Regulation 86AC amended 9

Mining Act 1978

Mining Amendment Regulations (No. 3) 2023

Made by the Governor in Executive Council.

##### 1. Citation

These regulations are the *Mining Amendment Regulations (No. 3) 2023*.

##### 2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;

(b) the rest of the regulations — on 1 October 2023.

##### 3. Regulations amended

These regulations amend the *Mining Regulations 1981*.

##### 4. Regulation 85 amended

In regulation 85(1) insert in alphabetical order:

beneficiated, in relation to mineral ore, does not include —

(a) crushed; or

(b) screened; or

(c) separated by hydrocycloning or a similar technology; or

(d) washed; or

(e) scrubbed; or

(f) trommelled; or

(g) dried; or

(h) blended with another mineral or with another form of the same mineral; or

(i) a combination of 2 or more of these processes;

blend means a blend or mixture of 2 or more minerals or forms of mineral referred to in the Table to regulation 86;

##### 5. Regulation 85B amended

In regulation 85B(1):

(a) delete “relevant —” and insert:

relevant, the following —

(b) after paragraph (b) insert:

(ba) if the mineral is sold in a blend —

(i) the components of the blend and the quantity of each component; and

(ii) any other information necessary to calculate the royalty for each component;

##### 6. Regulation 86 amended

(1) Delete regulation 86(1) and insert:

(1) When a mineral or a form of a mineral referred to in the Table to this regulation is obtained from a mining tenement, or from land the subject of an application for a mining tenement, a royalty must be paid by the holder of, or applicant for, the mining tenement.

(2) In regulation 86(2) after “a mineral” insert:

or form of a mineral

(3) After regulation 86(2) insert:

(2AA) If different minerals or forms of mineral referred to in the Table to this regulation are sold in a blend, the royalty to be paid for each mineral or form of mineral must be calculated by reference (if relevant) to the price at which the blend is sold.

  (4) In regulation 86(2a) delete the definitions of:

***Amount A***

***Amount B***

(5) In regulation 86(2a) insert in alphabetical order:

Amount A means, for the 5-year period beginning on 1 July 2010 and ending on 30 June 2015 and for each succeeding 5-year period (the relevant period), the amount calculated under subregulation (2b) or provided for in subregulation (2d), as the case requires;

Amount B means, for the 5-year period beginning on 1 July 2010 and ending on 30 June 2015 and for each succeeding 5-year period (the relevant period), the amount calculated under subregulation (2b) or provided for in subregulation (2d), as the case requires.

(6) In regulation 86 delete the Table and insert:

Table

|  | **Column 1** | **Column 2** | **Column 3** |
| --- | --- | --- | --- |
| **Mineral** | **Amount per tonne according to quantity produced or obtained** | **Percentage of the royalty value** | **The rate as specified hereunder** |
| Aggregate | Amount A |  |  |
| Attapulgite |  | 5% |  |
| Bauxite (crushed or screened) |  | 7½% |  |
| Building Stone | Amount B |  |  |
| Chromite in concentrate form |  | 5% |  |
| Clays | Amount A |  |  |
| Coal (including lignite)  — not exported |  |  | $1 per tonne, to be adjusted each year at 30 June in accordance with the percentage increase in the average ex‑mine value of Collie coal for the year ending on that date when compared with the corresponding value of Collie coal for the year ending on 30 June 1981. |
| — exported (crushed or screened) |  | 7½% |  |
| Cobalt  — if sold as crushed or screened material  — if sold in concentrate form  — if sold as a nickel by‑product or in metallic form |  | 7½%  5%  2½% |  |
| Copper  — if sold as crushed or screened material  — if sold in concentrate form  — if sold as a nickel by‑product or in metallic form |  | 7½%  5%  2½% |  |
| Diamond |  | 5% |  |
| Dolomite | Amount A |  |  |
| Feldspar |  | 5% |  |
| Garnet  — grades used for sand blasting, filtration, or waterjet cutting  — grades used in higher technologies, including for garnet paper and polishing processes |  |  | 5% of the royalty value, calculated on the basis of the nearest available port if exported  2½% of the royalty value, calculated on the basis of the nearest available port if exported |
| Gems and precious stones |  | 7½% |  |
| Gravel | Amount A |  |  |
| Gypsum | Amount A |  |  |
| Ilmenite in concentrate form, other than ilmenite feedstock as defined in regulation 86AC |  | 5% |  |
| Iron ore (including magnetite) |  |  |  |
| — crushed or screened |  | 7½% |  |
| — beneficiated |  | 5% |  |
| Kaolin |  | 5% |  |
| Lead  — if sold in concentrate form  — if sold in metallic form |  | 5%  2½% |  |
| Leucoxene in concentrate form |  | 5% |  |
| Limestone (including limesands and shellsands) |  |  |  |
| — used for agricultural or construction purposes or as a neutralising agent in tailings treatment operations | Amount A |  |  |
| — used for metallurgical purposes (other than as a neutralising agent in tailings treatment operations) | Amount B |  |  |
| Lithium in concentrate form |  | 5% |  |
| Manganese |  |  |  |
| — crushed or screened |  | 7½% |  |
| — beneficiated by the producer in Western Australia |  | 5% |  |
| Nickel |  | 2½% |  |
| Ochre |  | 5% |  |
| Platinoids in metallic form |  | 2½% |  |
| Potash |  | 5% |  |
| Rare earth elements |  |  | In accordance with the following formula: |
|  |  |  | Where P = a representative market value of rare earth oxides (REO), as determined from time to time by the Minister. |
|  |  |  | Where U = the number of units per hundred of REO in the rare earth elements‑containing products sold. |
|  |  |  | Where R = the royalty. |
| Rock | Amount A |  |  |
| Rutile in concentrate form |  | 5% |  |
| Salt | Amount A |  |  |
| Sand (used for construction purposes) | Amount A |  |  |
| Semi‑precious stones (including specimen stones) |  | 7½% |  |
| Silica (used for metallurgical purposes) | Amount B |  |  |
| Silver (if sold as a by‑product or in metallic form) |  | 2½% |  |
| Spongolite |  | 5% |  |
| Talc | Amount B |  |  |
| Tantalum |  |  | (a) 5% of the royalty value if sold in concentrate form.  (b) 5% of the value in concentrate form if sold after further processing. |
| Tin |  |  | 2½% of the royalty value of tin metal when sold in that form; or, when sold in any other form, 2½% of the value of the contained tin calculated at the ruling price of tin metal used for the purpose of the sale. |
| Uranium |  |  | The rate is 5% of the royalty value if sold as a uranium oxide concentrate. |
| Vanadium |  |  | The rate is —  (a) if sold in concentrate form (vanadium oxide), 5% of the vanadium pentoxide price; or  (b) if sold in metallic form (ferrovanadium), 2½% of the ferrovanadium price; or  (c) for vanadium not realised on contained vanadium from a product (such as magnetite) where the average grades of vanadium are over 0.275% V2O5 in the ore and a vanadium circuit is not installed — 5% of the vanadium pentoxide price. |
| Zinc  — if sold in concentrate form  — if sold in metallic form |  | 5%  2½% |  |
| Zircon in concentrate form |  | 5% |  |
| A mineral that is listed in this Table but is in a form that is not listed in this Table for that mineral  or  a mineral that is not listed in this Table or mentioned in regulation 86AA or 86AC |  |  | The rate is —  (a) if sold as crushed or screened material, 7½% of the royalty value; or  (b) if sold in concentrate form, 5% of the royalty value; or  (c) if sold in metallic form or a form of equivalent processing, 2½% of the royalty value.; or  (d) if sold in any other form, 7½% of the royalty value. |

##### 7. Regulation 86AA amended

(1) Delete regulation 86AA(2) to (5) and insert:

(4) The rate of royalty payable for gold metal is 2.5% of the royalty value of the gold metal produced.

(2) In regulation 86AA(9A) delete “as a concentrate” and insert:

in concentrate form

##### 8. Regulation 86AC amended

Delete regulation 86AC(4) and insert:

(4) The rate of royalty payable for ilmenite feedstock that is of marketable quality is 5% of its value.

V. MOLAN, Clerk of the Executive Council

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