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Mineral Resources Regulations 2016

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TASMANIA

Mineral Resources Regulations 2016

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Mineral Resources Development Act 1995 .

15 June 2016

C. WARNER

Governor

By His Excellency's Command,

WILLIAM E. F. HODGMAN

Acting for and on behalf of the Minister for Mining

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Mineral Resources Regulations 2016 .

2. Commencement

These regulations take effect on 28 June 2016.

3. Interpretation

In these regulations –

Act means the Mineral Resources Development Act 1995 ;

Australian Accounting Standards means the Australian Accounting Standards, made by the Australian Accounting Standards Board, as in force from time to time;

building and dimension stone means stone used –

- (a) for ornamental purposes; or
- (b) in walls, floors or roofs of structures; or
- (c) as a paving stone;

datum post means a post erected on the corner of land being marked out;

financial year has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

gold doré means an alloy of gold and silver resulting from the treatment of gold-bearing minerals;

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;

holder's financial year means the financial year for the holder of a mineral tenement;

iron ore pellet means a pellet that is produced by combining iron ore concentrate with other materials;

metal means a metallic mineral, specified in Part 1 of Schedule 4 , refined to an elemental state;

mineral concentrate means the product of a chemical or physical process of extracting a metal from a mineral ore that results in the enrichment of that metal;

mineral ore means the naturally occurring material from which one or more minerals of economic value can be extracted;

net sales, in relation to a mineral, means the amount received from the sale of –

- (a) if a mineral concentrate has not been produced from the mineral ore, the mineral itself (less sale costs); or
- (b) if a mineral concentrate has been produced from the mineral ore, the mineral concentrate (less sale costs); or
- (c) if an iron ore pellet has been produced, the iron ore concentrate within the pellet (less sale costs);

public notice means a notice published in a newspaper circulating in the area in which the land, which is the subject of the notice, is situated;

quarter means –

- (a) a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year; or
- (b) any other approved period;

reference rate means the 30 Day Bank Bill Swap Reference Rate published daily by the Australian Financial Markets Association;

sale costs means costs reasonably incurred by a lessee, or licensee, for the purposes of making a mineral ore, or mineral concentrate, available for sale outside the site of its production and includes –

- (a) costs incurred by a lessee, or licensee, in transporting a mineral ore, or mineral concentrate, from the site of its production to the point of sale; and
- (b) costs incurred by a lessee, or licensee, in preparing or refining a mineral ore, or mineral concentrate, outside the site of its production; and
- (c) costs incurred by a lessee, or licensee, in arranging or effecting sale, or delivery, of a mineral ore or mineral concentrate;

year means any 4 consecutive quarters used for accounting purposes.

4. Determination of amount received from sale of mineral

(1) In this regulation –

AAS revenue from the sale of the mineral means the amount that is –

- (a) determined, in accordance with the Australian Accounting Standards, to be the revenue from the sale of the mineral; and
- (b) required in accordance with those Standards to be recorded in an income statement.

(2) For the purposes of these regulations, the amount received from a sale of a mineral is –

- (a) the AAS revenue from the sale of the mineral; or
- (b) if subregulation (3) applies in relation to the sale, the amount determined, in accordance with that subregulation, to be the revenue from the sale.

(3) If –

- (a) a mineral is sold by a lessee or licensee to a person related to the lessee or licensee; and
- (b) the AAS revenue from the sale of the mineral is less than would have been recorded in an income statement if the market price, as at the time of the sale of the mineral, had been paid for the mineral –

the revenue from the sale is the amount that would have been the AAS revenue from the sale of the mineral if the mineral had been sold at the market price for the mineral, as at the time of the sale of the mineral.

(4) In this regulation, a person is related to a lessee or licensee if –

- (a) the person is a natural person and the lessee or licensee is a relative of the person or is a body corporate controlled by a relative of the person; or
- (b) the person is a body corporate, the lessee or licensee is a body corporate and the person is related to the lessee or licensee under section 50 of the Corporations Act.

(5) For the purposes of subregulation (3), the time of sale of a mineral is the time at which possession of the mineral is transferred to the purchaser of the mineral.

5. Application of Act

For the purposes of section 5(7) of the Act, the prescribed area of land is the area of land shown on Plans 3251 to 3260 (inclusive) in the Central Plan Register.

PART 2 - Licences and Leases

6. Marking out

(1) For the purposes of section 72 of the Act, a person is to mark out land in respect of an application for a lease by –

- (a) erecting a datum post, on one of the corners of the land, that –
 - (i) is not less than 100 millimetres wide and 100 millimetres deep; and
 - (ii) projects not less than one metre from the ground; and
- (b) affixing to the datum post a legible and durable notice stating the following:
 - (i) the purpose of the lease;
 - (ii) any category or type of mineral to be covered by the lease;
 - (iii) the area of the land;
 - (iv) the position of the notice in relation to the land;
 - (v) the date of the marking out;
 - (vi) the name and address of the applicant for the lease;
 - (vii) the name and address of the person marking out the land.

(2) For the purposes of subregulation (1)(a), an existing tree, or an existing post, situated on one of the corners of the land, of the same proportions as specified in that subregulation, may be used as a datum post.

(3) An applicant for a lease is to lodge, with the Registrar, a notice, in an approved form, of the marking out.

(4) A notice is to be lodged with the Registrar within –

- (a) 7 days after the marking out; or
- (b) 7 days after giving public notice of the application in accordance with any conditions the Director determines under section 72(4) of the Act; or
- (c) any further period the Registrar may allow.

(5) The area and boundaries of the land are to be calculated from the datum post.

7. Prescribed area

For the purpose of section 78A(3) of the Act, the prescribed area of land is the area of land shown on Plan 3261 in the Central Plan Register.

PART 3 - Royalty

8. Prescribed rates of royalty

(1) For the purpose of section 102(1) of the Act, the prescribed rate of royalty payable by a lessee in respect of a mineral specified in Schedule 1 is the rate specified in that Schedule.

(2) For the purpose of section 102(1A) of the Act, the prescribed rate of royalty payable by a licensee in respect of a mineral specified in Schedule 1 is the rate specified in that Schedule.

(3) For the purpose of sections 102(1) and (1A) of the Act, the prescribed rate of royalty payable by a lessee or a licensee in respect of a mineral, other than a geothermal substance, not specified in Schedule 1 is that produced by the following formula:

$$R = (0.019 \times N) + \left(\frac{0.4 \times P^2}{N} \right)$$

where –

R is the royalty;

N is the yearly net sales of the mineral for the immediately preceding year;

P is the yearly profit as calculated or determined under regulation 9 , if any, for the immediately preceding year.

(4) For the purpose of section 102(1C) of the Act, the prescribed maximum rate of royalty payable for a mineral not specified in Schedule 1 is equivalent to 5.35% of net sales.

(5) For the purpose of section 102(1D) of the Act, the prescribed rate of royalty payable by a licensee in respect of geothermal energy produced under the licence is 2.75% of the value of the geothermal energy produced at the well head.

(6) Despite subregulation (3) , if the value of the net sales of a mineral not specified in Schedule 1 is less than \$100 000 for a year, the prescribed rate of royalty is 1.9% of net sales.

(7) If the value of the net sales of a mineral not specified in Schedule 1 is \$100 000 or more but less than \$600 000 for a year –

(a) net sales royalty is to be assessed and paid on a quarterly basis; and

(b) profit royalty is to be assessed and paid on an annual basis.

(8) For the purpose of subregulation (7) –

net sales royalty means the component of the formula in subregulation (3) represented by:

$$0.019 \times N$$

profit royalty means the component of the formula in subregulation (3) represented by:

$$\frac{0.4 \times P^2}{N}$$

9. Calculation of yearly profit

(1) For the purpose of regulation 8(3) , yearly profit is the prescribed yearly profit for the lessee's, or licensee's, mining operations, from which the mineral referred to in that subregulation is obtained, adjusted –

(a) to exclude –

(i) interest; and

(ii) hedging gains and losses; and

(iii) exploration expenditure; and

- (iv) financing costs; and
 - (v) royalty; and
 - (vi) pellet premium; and
- (b) to include –
- (i) delineation drilling costs; and
 - (ii) head office expenses; and
 - (iii) mining operations rehabilitation interest expense.

(2) If a mineral not specified in Schedule 1 is sold at a price less than the market price, the Minister may determine the amount of yearly profit in respect of that mineral up to an amount not exceeding the amount of yearly profit that would have been likely if the mineral had been sold at the market price.

(3) In this regulation –

delineation drilling costs means the lessee's or licensee's costs of drilling for specified resources in the lease area, or licence area, and the costs of developing access routes for such drilling;

exploration expenditure means non-capitalised expenditure incurred by the lessee, or licensee, in prospecting or searching for minerals –

- (a) inside or outside the lease area or licence area; and
- (b) outside an area of specified resources;

head office expenses means those costs incurred by the lessee, or licensee, in the administration and management of the mining operations referred to in subregulation (1) from that lessee's or licensee's head office, whether located in the State, in another State or a Territory in Australia or overseas, in so far as those costs –

- (a) relate to mining and sale of minerals from that mining operation; and
- (b) have not already been included in the calculation or determination of the lessee's or licensee's yearly profit for that mining operation; and
- (c) do not include costs as set out in subregulation (1)(a) ;

JORC Code means the code for reporting of mineral resources and ore reserves, published by the Australasian Joint Ore Reserves Committee, as updated from time to time;

mining operations rehabilitation interest expense means the lessee's or licensee's interest expense associated with a discounted rehabilitation provision, within the meaning of the Australian Accounting Standards, for the mining operations;

pellet premium means the amount received from the sale of an iron ore pellet that is in excess of the value of the iron ore, or iron ore concentrate, contained within the pellet;

prescribed yearly profit means the yearly earnings before interest, and taxation, as shown in an income statement prepared in accordance with the Australian Accounting Standards;

specified resources means –

- (a) measured or indicated resources; or
- (b) ore reserves –

as defined in the JORC Code.

10. Estimation of yearly profit

(1) For the purpose of enabling royalty to be paid as required by regulation 11 in respect of a quarter, the Director may allow the holder of a mineral tenement to estimate yearly profit in relation to the quarter, if –

(a) the Director is satisfied that insufficient data is available to enable the holder to determine yearly profit in relation to that quarter; and

(b) the holder supplies the Director within 30 days after the end of the holder's financial year with a reconciled statement of accounts relating to the operation of the tenement during that holder's financial year; and

(c) the holder, within 30 days after the end of the holder's financial year, pays to the Director the amount, if any, of any further royalty that, based upon that statement, is payable in accordance with subregulation (4)(b) .

(2) For the purposes of subregulation (1) , the estimate of the yearly profit in relation to a quarter is to be made by the holder of a mineral tenement –

(a) estimating, in accordance with regulation 9 , the yearly profit in relation to the quarter (the **current quarter**), on the basis of the data, in relation to the current quarter, that is available to the holder at the time of the estimation; and

(b) if it appears, in accordance with the data available to enable the holder to determine yearly profit for a previous quarter in relation to which an amount of royalty has been paid by the holder –

(i) the holder paid more royalty in relation to the previous quarter than the holder would have been required to pay had the data been available at the time the payment was made in relation to the previous quarter, deducting, from the amount determined in accordance with paragraph (a) in relation to the current quarter, the amount by which royalty was overpaid in relation to the previous quarter; or

(ii) the holder paid less royalty in relation to the previous quarter than the holder would have been required to pay had the data been available at the time the payment was made in relation to the previous quarter, adding, to the amount determined in accordance with paragraph (a) in relation to the current quarter, the amount by which royalty was underpaid in relation to the previous quarter.

(3) The amount that the holder is to pay in respect of a quarter is to be the amount obtained by the calculation under subregulation (2)(b) in respect of that quarter.

(4) If, at the end of a financial year in relation to the holder of a mineral tenement, the amounts paid as royalty in accordance with estimates under subregulation (1) are –

(a) more than the amount indicated in the reconciled statement (the **final amount**) provided by the holder to the Director in accordance with subregulation (2) , the Director must refund to the holder the amount by which the amounts paid in accordance with estimates under subregulation (1) are more than the final amount; or

(b) less than the amount indicated in the reconciled statement (the **final amount**) provided by the holder to the Director in accordance with subregulation (2) , the holder must pay to the Director the amount by which the amounts paid in accordance with estimates under subregulation (1) are less than the final amount.

11. Royalty payable

For the purpose of section 102(2)(b) of the Act, royalty is payable –

(a) in respect of each quarter; and

(b) by the 30th day after the end of that quarter.

12. Payments by instalment in relation to minerals

If the Director so determines, a lessee or licensee may pay royalty in respect of a mineral in instalments of any amount the Director determines, having regard to –

(a) the net sales of that mineral in the quarter in relation to which royalty is payable; and

(b) any profit or loss in respect of that mineral for that quarter and any previous quarter or quarters of the year to which that quarter relates; and

(c) the amount of any instalment of royalty paid in that year.

13. Interest payable

For the purpose of section 102(4) of the Act, interest on any royalty not paid by the due date is payable at twice the reference rate as published on the due date.

14. Rebate on royalty payable

(1) For the purpose of section 102A(2) of the Act, the rate for a rebate on royalty payable is 20% for a metal, other than gold doré, produced in Tasmania from a mineral mined in Tasmania.

(2) Subregulation (1) does not apply to the primary treatment of a mineral to produce a mineral concentrate for sale or transportation.

(3) For the purpose of section 102A(2) of the Act, the rate for a rebate on royalty payable is 10% for gold doré produced in Tasmania from a mineral mined in Tasmania.

(4) The Minister, after consultation with the Treasurer, may increase a rebate under subregulation (3) to 20% having regard to the following:

(a) the size of a new investment and additional employment arising from the production of gold doré;

(b) any benefit to the Tasmanian economy from the new investment producing gold doré.

PART 4 - Records and Reports

15. Records

- (1) The holder of a mineral tenement is to keep a record of the following information in relation to minerals, or geothermal energy, obtained during mining operations under the mineral tenement:
 - (a) the quantity of minerals, or geothermal energy, obtained;
 - (b) the quantity of mineral products produced from the treatment of ores;
 - (c) the quantity of mineral products, or geothermal energy, sold;
 - (d) the amount received from the sale of mineral products or geothermal energy;
 - (e) any details, calculations or information used to determine yearly profits.
- (2) The holder of a mineral tenement is to retain, in good condition, for at least 7 years, a record kept under subregulation (1) .
- (3) The Director may require the holder of a mineral tenement to supply to the Director –
 - (a) copies of all records kept under subregulation (1) ; and
 - (b) any other information necessary to enable the amount of royalty payable by that person to be assessed.
- (4) The Director, or any other person authorised in writing by the Director, may examine –
 - (a) the records kept under subregulation (1) ; and
 - (b) any information requested under subregulation (3)(b) .

16. Audit report

- (1) The holder of a mineral tenement for a mineral not specified in Schedule 1 is, within 120 days after the end of the mineral tenement holder's financial year, to submit to the Director –
 - (a) a certificate from the mineral tenement holder's auditor certifying that the income statement used as the basis to complete the mineral tenement holder's royalty returns for that financial year has been prepared in accordance with the Australian Accounting Standards; and
 - (b) a copy of the mineral tenement holder's annual financial statements for that financial year.
- (2) In subregulation (1) –

financial statements means the financial statements for the mining operations from which a mineral referred to in the subregulation is obtained;

income statement means the mineral tenement holder's income statement for the mining operations from which a mineral referred to in the subregulation is obtained.

PART 5 - Fees and Rent

17. Fees and rent

- (1) The fees specified in Schedule 2 are payable in respect of licences, leases and other matters.
- (2) The fees specified in Schedule 3 are payable in respect of rent for land over which licences and leases are granted.
- (3) The fees specified in Schedule 3 are GST inclusive.

18. Payment of rent

The holder of an exploration licence, a special exploration licence, a retention licence or a production licence is to pay the rent in respect of the licence on or before the anniversary of the date on which the licence was issued.

PART 6 - Miscellaneous

19. Prescribed minerals

The minerals specified in Schedule 4 are prescribed as metallic minerals, industrial minerals, semi-precious stones and precious stones.

SCHEDULE 1 - Royalties

Regulation 8(1) and (2)

Item	Type of royalty	Amount
1.	For petroleum, for each \$100 of the gross value of petroleum at the well head	\$12.00
2.	For coal seam gas, for each \$100 of the gross value of coal seam gas at the well head	\$12.00
3.	For –	
	(a) clay, per tonne	\$1.32
	(b) kaolin, per tonne	\$1.32
	(c) dolomite for metallurgical and chemical use, per tonne	\$1.32
	(d) dolomite for other uses, per tonne	\$0.66
	(e) limestone for chemical and metallurgical use, per tonne	\$1.32
	(f) limestone for other uses, per tonne	\$0.66
	(g) silica for metallurgical use, per tonne	\$1.32 or 5.35% of sales value, whichever is the greater
	(h) silica flour per tonne	\$1.00
	(i) silica for other uses (excluding silica flour), per tonne	\$0.66
	(j) sand, per tonne	\$0.66
	(k) gravel, per tonne	\$0.66
	(l) pebbles, per tonne	\$2.64
	(m) building and dimension stone, per cubic metre	\$5.50
	(n) crushed and broken stone, per tonne	\$0.66
	(o) magnesite for chemical and metallurgical use, per tonne	\$1.32 or 5.35% of sales value, whichever is the greater
	(p) magnesite for other uses, per tonne	\$0.66
	(q) iron oxide used in pigment manufacture, per tonne	\$1.32

SCHEDULE 2 - Fees

Regulation 17(1)

PART 1 - Licences and leases

[Part 1 of Schedule 2 Amended by S.R. 2018, No. 20, Applied:30 May 2018]

Item	Type of fee	Amount (fee units)
1.	Application for –	
	(a) exploration licence (other than special exploration licence)	860
	(b) retention licence	860
	(c) mining lease	860
	(d) prospecting licence	20
	(e) group prospecting licence	140
2.	Objection to –	
	(a) exploration licence	28
	(b) special exploration licence	28
	(c) retention licence	28
	(d) production licence	28
	(e) mining lease	28
3.	Application for extension of term of –	
	(a) exploration licence	570
	(b) special exploration licence	860
	(c) retention licence	570
	(d) production licence	860
4.	Application for exemption from conditions of –	
	(a) exploration licence or special exploration licence	215
	(b) retention licence	215
	(c) mining lease	215
	(d) production licence	215
5.	Application for transfer of –	
	(a) exploration licence or special exploration licence	285
	(b) retention licence	285
	(c) production licence	430
	(d) mining lease (private land)	285
	(e) mining lease (Crown land)	430
6.	Renewal of mining lease	570
7.	Surrender of –	
	(a) exploration licence or special exploration licence	105
	(b) retention licence	105
	(c) production licence	105
	(d) mining lease	105
8.	Application to consolidate exploration licence	215
9.	Sublease of mining lease	215

PART 2 - Miscellaneous

Item	Type of fee	Amount (fee units)
1.	Approval of instrument of legal or equitable interest in mineral tenement	215
2.	Lodgement of caveat	105
3.	Collection of royalty on behalf of private owners	5% of royalty

SCHEDULE 3 - Rent

Regulation 17(2) and (3)

Item	Type of fee	Amount (fee units)
1.	Exploration licence for category 4 minerals – (a) each of the first 2 periods of 12 months, per square kilometre (b) each subsequent period of 12 months, per square kilometre	2.85 4.29
2.	Exploration licence for all other minerals – (a) each of the first 2 periods of 12 months, per square kilometre (b) each subsequent period of 12 months, per square kilometre	18.15 36.30
3.	Special exploration licence – (a) each of the first 2 periods of 12 months, per square kilometre (b) each subsequent period of 12 months, per square kilometre	2.85 4.29
4.	Retention licence – (a) coal, petroleum, coal seam gas or geothermal substance, per square kilometre for each period of 12 months (b) minerals other than coal, petroleum, coal seam gas or geothermal substance, per square kilometre for each period of 12 months	860 1 715
5.	Production licence for each financial year, per square kilometre	75 with minimum 5150
6.	Mining lease, per hectare, for each financial year	15.13 with minimum 302.60

SCHEDULE 4 - Prescribed minerals

Regulation 19

PART 1 - Metallic minerals

The following minerals are prescribed as metallic minerals:

-
- | | |
|-----|--|
| 1. | aluminium |
| 2. | antimony |
| 3. | arsenic |
| 4. | beryllium |
| 5. | bismuth |
| 6. | cadmium |
| 7. | caesium |
| 8. | cobalt |
| 9. | copper |
| 10. | gallium |
| 11. | germanium |
| 12. | gold |
| 13. | hafnium |
| 14. | indium |
| 15. | iridium |
| 16. | iron (including magnetite but excluding iron oxides used in pigment manufacture) |
| 17. | lead |
| 18. | lithium |
| 19. | manganese |
| 20. | mercury |
| 21. | molybdenum |
| 22. | monazite |
| 23. | nickel |
| 24. | niobium |
| 25. | osmium |
| 26. | palladium |
| 27. | platinoid minerals |
| 28. | platinum |
| 29. | rare earth metals |
| 30. | rhodium |
| 31. | rubidium |
| 32. | ruthenium |
| 33. | selenium |
| 34. | silver |
| 35. | tantalum |
| 36. | tellurium |
| 37. | tin |
| 38. | titanium |
| 39. | tungsten (including scheelite and wolframite) |
| 40. | vanadium |
| 41. | zinc |
| 42. | zirconium |

43. | ores of any of the above minerals

PART 2 - Industrial minerals

The following minerals are prescribed as industrial minerals:

-
1. alum
 2. alunite
 3. apatite
 4. asbestos
 5. attapulgite
 6. barite
 7. bentonite
 8. beryl
 9. borates
 10. calcite
 11. chromite
 12. corundum
 13. diamond
 14. diatomaceous earth
 15. dolomite
 16. feldspar
 17. fluorite
 18. garnet
 19. graphite
 20. gypsum
 21. halite (including solar salt)
 22. halloysite
 23. ilmenite
 24. iron oxide (used in pigment manufacture)
 25. kaolinite
 26. leucoxene
 27. limestone
 28. magnesite
 29. marble
 30. mica
 31. mineral pigments
 32. monazite
 33. montmorillonite
 34. olivine
 35. perlite
 36. phosphates
 37. pyrophyllite
 38. quartz
 39. rare earth minerals
 40. rutile
 41. silica
 42. sulfur
 43. syenite
 44. talc
 45. vermiculite
 46. wollastonite
 47. zeolites

PART 3 - Semi-precious stones

The following minerals are prescribed as semi-precious stones:

-
- | | |
|-----|------------------------|
| 1. | agate |
| 2. | beryl |
| 3. | chalcedony |
| 4. | chrysoberyl |
| 5. | crocoite |
| 6. | crystal |
| 7. | petrified wood |
| 8. | quartz |
| 9. | stichtite |
| 10. | topaz |
| 11. | tourmaline |
| 12. | turquoise |
| 13. | zircon (as a gemstone) |

PART 4 - Precious stones

The following minerals are prescribed as precious stones:

-
- | | |
|----|--|
| 1. | corundum (as a gemstone including ruby and sapphire) |
| 2. | diamond |
| 3. | peridot |

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 22 June 2016