

Petroleum and Geothermal Energy Act 2000

Guidelines for payment of royalty and provision of information

Version: 27 October 2023

1. Payment of Royalty

The Licensee shall pay royalty in respect of all regulated substances (substance) recovered from a Production Licence other than a substance described in Section 43(3)(a) of the *Petroleum and Geothermal Energy Act 2000* (the “Act”).

2. Calculation of Royalty

The Licensee shall pay royalty at a rate of ten (10) percentum of the value at the wellhead of the substance which shall be an amount calculated by taking the amount that could reasonably be realised on sale of the substance to a genuine purchaser at arms length from the Producer excluding any Goods and Services Tax (GST) component (“arms length sales value”) (as defined in clause (3)(a)(i)) and subtracting therefrom all reasonable expenses reasonably incurred by the Producer excluding any GST component in treating, processing or refining the substance prior to delivery or in transporting the substance to the point of delivery to the purchaser, which expenses shall be the following sums, provided those amounts do not in aggregate exceed thirty (30) percentum of the value of the substances sold, in a financial year:

- a) a sum calculated by writing off on a straight line basis together with interest on the written down value at the rate provided in clause (3)(c), over a period of ten (10) years commencing from the month the expense was incurred (or such lesser period as may be determined as being the life of the field) the actual capital expenses incurred by the Producer in respect of all plant used for the purposes of treating, processing or refining of the substance prior to delivery (but not upstream of the wellhead) or in transporting the substance to the point of delivery to the purchaser provided however that if any item of such plant is sold prior to being fully depreciated, the amount obtained upon such sale shall be deducted from the written down value of such item for the purposes of calculating the deduction, but not so as to reduce the written down value below zero;
- b) a sum being expenses actually incurred by the Producer in respect of persons not employed on site by the Producer but whose employment functions directly relate to relevant treating, processing or refining of the substance prior to delivery (but not upstream of the wellhead) or in transporting the substance to the point of delivery to the purchaser;
- c) a sum being expenses (other than expenses upstream of the wellhead) actually incurred by the Producer in respect of operating costs related to treating, processing or refining of the substance prior to delivery or in transporting the substance to the point of delivery to the purchaser, including but not limited to the amount of any licence fees payable in respect of any production licence, associated facilities licence or pipeline licence, provided however that:

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- (i) the amount of such deduction will be reduced by the amount obtained upon the sale of any item of plant which has not been depreciated or which has been fully depreciated, but not so as to reduce the deduction below zero;
 - (ii) if any such expenses are incurred pursuant to any agreement which is not bona fide or arms length, such expenses (or part thereof) shall not be deducted, and
- (d) a sum being expenses (other than expenses upstream of the wellhead) actually incurred by the Producer pursuant to a bona fide arms length agreement to lease any plant used for the purposes of treating, processing or refining of the substance prior to delivery or in transporting the substance to the point of delivery to the purchaser;
- (e) a sum being the actual expenses (other than expenses upstream of the wellhead) incurred by the Producer in rehabilitating the ground surface and site of plant and the actual expenses incurred in dismantling, removing or abandoning of such plant less any salvage obtained thereon where such plant is used for the purposes of treating processing or refining of the substance prior to delivery or in transporting the substance to the point of delivery to the purchaser and the actual expenses incurred in rehabilitating the ground surface and site of a well of the type described in clause (3)(b) and the actual expenses incurred in abandoning such a well but not including any costs incurred as a result of the loss of control of any well.

3. Further provisions regarding calculation of Royalty

- (a) For the purposes of clause (2):-
- (i) in each month the arms length sales value of the substance means the value of the actual sales in respect of the substance described in clause (1) in that month provided however that if any substance is not supplied to a bona fide arms length purchaser, not sold for full market value, or returned to a natural reservoir for later production, destroyed, dissipated or used by the Producer not in accordance with Section 43(3) of the Act, the gross sales value of such substances shall be the amount which would have been received in respect of such substance from a bona fide arms length purchaser for full market value;
 - (ii) the term “plant” includes but is not limited to:
 - (A) any machinery, equipment, vehicle, implement, tool, article, vessel, pit, building, structure, improvement or other such property used in, or in connection with, treating processing or refining of the substance prior to the delivery or in transporting the substance to the point of delivery to the purchaser; or



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(B) any pipeline; and

(iii) “wellhead” means the casing head and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

(b) Non Producing Wells

The capital expenditure referred to in clause (2)(a) may include the actual capital expenditure incurred by the Producer in respect of wells used solely for the purpose of assisting or enhancing the recovery of the substance from other wells or for the purposes of storing the substance or for the recovery of disposal of water used in connection with treating processing or refining of the substance prior to delivery or for any similar purpose other than the production of the substance and may also include the actual capital expenditure incurred by the Producer in converting a well used for the production of the substance to a well used for such other purposes.

(c) Interest Rate

For the purpose of clause (2)(a) the interest rate shall be one half of the long term Australian Government Bond Rate for bonds of a 10 year term as published at the end of the month in which the capital expenditure was made. If no such rate is in existence or published at the end of such period, then the interest rate for the purposes of clause (2)(a) shall be one half of the average of the long term Australian Government Bond Rate for bonds of a 10 year term prevailing during the period of 5 years preceding the date on which such rate ceased to exist or be published.

(d) Apportionment of Expenses

Where an item of plant is used partly for the purposes of treating, processing or refining of the substance prior to delivery or in transporting the substance to the point of delivery to the purchaser, and partly for some other purpose, the amount of the deduction (whether for capital or operating expenditure) which shall be allowed shall not include the proportion of the actual capital or operating expenditure applicable to that other purpose.

(e) Sale of Plant

Notwithstanding the provisions of clause (2), if an item of plant is sold by a Producer (“the first Producer”) to another Producer, or to a company that becomes a successor or assign of the first Producer (“the second Producer”), the second Producer may only depreciate the plant to the extent to which the first Producer was, immediately before the time of sale, entitled to depreciate the plant.



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(f) Take or Pay

For the purposes of this clause and of calculating the gross sales value of the substance, where the Producer enters into an agreement commonly known as a take or pay agreement, any payment received by the Producer in respect of petroleum which has been paid for but not been taken shall be treated as part of the gross sales value of the substance at the time of receipt of payment by such Producer and not at any other time.

(g) Tolling

- (i) If the Producer receives any revenue from the use of any plant downstream of the wellhead used for treating processing or refining the substance sourced from anywhere within the area from time to time comprised in an Exploration Licence or any Production Licence issued from an area which was comprised in an Exploration Licence immediately prior to the time such Production Licence was issued, or in transporting such substance to the point of delivery to the purchaser, such revenue shall be deemed to be part of the bona fide sales value of the substance to the intent that royalty shall be payable thereon;
- (ii) Any sums, being sums deemed under clause (3)(g)(i) to be part of the bona fide value of the substances, paid by the Producer in respect of the use of such plant for treating processing or refining such substance or in transporting such substance to the point of delivery to the purchaser shall be deemed to be an expense under clause (2)(c);
- (iii) If any such plant is used for treating processing or refining of the substance sourced from outside of the areas referred to in clause (3)(g)(i) or in transporting such substance to the point of delivery to the purchaser, any amounts which may be claimed as deductions under this clause (whether such deductions be by way of operating expenditure or capital expenditure) in respect of such plant shall be reduced by the proportion which would be obtained by the method of apportioning costs used by the Producer to ascertain the tolling fee, but any revenue received by the Producer for the use of such plant for the treating, processing or refining of such substance prior to delivery or in transporting the substance to the point of delivery to the purchaser shall not be deemed to part of the gross sales value of the substance.



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4. Royalty returns

- a) Not later than thirty (30) days after the conclusion of each calendar month the Licensee will calculate and notify to the Minister the royalty, calculated by taking the bona fide sales value of the substance sold in that month (the price that could be reasonably realised under the Act), adding any other revenue relevant to the royalty calculation and deducting therefrom the deduction relating to that month payable by each Licensee. The Licensee shall with each such notification provide the Minister with a royalty return, in a form and manner approved by the Minister, advising of the quantity of the substance sold, the amount realised upon such sale during the last preceding month, any other revenue relevant to the royalty calculation and deductions relating to that month, together with such other information as the Minister may require.
- b) The Licensees shall not later than thirty (30) days after the conclusion of each calendar month pay to the Minister the amount of royalty specified in the royalty return referred to in clause (4)(a) as payable.
- c) Twice yearly, upon request with sufficient notice (minimum of one (1) month) the Licensee shall provide the Minister with a bona fide forecast of the sales volume of the substance, the sales value of the substance, the allowable deductions apportioned between capital and operational deductions and hence calculate the estimated royalty payable for both the remainder of the relevant financial year and future financial years. The Licensee will be required to provide a bona fide forecast as necessary for up to a period of five (5) financial years including detail as referred to above but excluding a monthly apportionment for all but the proceeding twelve (12) month period.
- d) Before 30 September each year, Licensees must reconcile their royalty returns for the preceding financial year ended 30 June by lodging an Annual Reconciliation return. After the completion of each twelve (12) month period concluding on each 30 June, the Licensee shall reconcile its royalty return submissions with actual volumes, sold values and deductions for the period and shall provide the Minister by 30 September with copies of such reconciliations, lodging an Annual Reconciliation return advising the Minister of any additional royalty or overpaid royalty calculated in accordance with those Annual Reconciliation returns by each Licensee.
- e) In undertaking the Annual Reconciliation, the Licensee will ensure the deductions for the period do not in aggregate exceed thirty (30) percentum of the aggregate sales value of the substance(s) sold in that financial year.
- f) If an Annual Reconciliation return shows that the total of the amounts of royalty paid during the last preceding twelve (12) months was less than the amount of royalty which should have been paid for that period, the difference must be paid when lodging the Annual Reconciliation return.



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- g) If an Annual Reconciliation return shows that the total of the amounts of royalty paid during the last preceding twelve (12) months was more than the amount of the royalty which should have been paid for that period, the difference may be set off against royalty payable in the next succeeding months.
- h) Expenses claimed as deductions under clause (2)(a) to clause (2)(e) inclusive in a particular financial year shall not be carried forward to subsequent financial years (i.e. deductions not fully utilised within the financial year they relate to must not be carried forward to a future financial year).
- i) The Licensee shall at its cost cause the Annual Reconciliation return submitted by the Licensee to be audited by the auditor appointed by the Licensee to audit its owner accounts (provided that such auditor must be a duly registered auditor in Australia), and the Licensee shall lodge with the Minister a copy of the Auditor's Report in respect of a particular Annual Reconciliation return prior to 30 November. Such a report is to be accompanied by a certificate by the auditor that the Annual Reconciliation return was prepared in accordance with these guidelines.
- j) The Minister shall, in accordance with Section 43(8) of the Act, assess the value at the wellhead of the substance produced by the Licensee and may require the Licensee to pay within thirty (30) days of the date of notice of such assessment the additional royalty determined by the Minister as payable.

For further information please contact:

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