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Royalty Ruling General:

ROYALTY RULING SYSTEM: EXPLANATION AND STATUS

A Royalty Ruling, when issued, is the published view of the Commissioner, Office of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, guidelines, memoranda, manuals, advice or similar statements in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Royalty Ruling, the change in the law overrides the Royalty Ruling—that is, the Commissioner will determine the royalty liability in accordance with the changed law.

What this Ruling is about

1. The Treasurer, Minister for Employment and Industrial Relations, and Minister for Aboriginal and Torres Strait Islander Partnerships (the Minister) is responsible for the administration of the *Mineral Resources Act 1989* (the Mineral Resources Act), the *Petroleum and Gas (Production and Safety) Act 2004* (the PGPS Act) and supporting Regulations (collectively, the resources legislation), to the extent that those Acts are relevant to royalties.¹
2. The Minister's functions and powers under the resources legislation have been delegated to the Commissioner.
3. The purpose of the Royalty Rulings system is to publish the views of the Commissioner in respect of the interpretation and application of the royalty provisions of the resources legislation.
4. The purpose of this Royalty Ruling is to set out the system for Royalty Rulings, including how they take effect.

Ruling and explanation

The effect of a Royalty Ruling

5. A Royalty Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, guidelines, memoranda, manuals, advice or similar statements in respect of the issue(s) it addresses.

¹ As at the date of this Royalty Ruling, such responsibility is vested in the Minister pursuant to the *Administrative Arrangements Order (No. 2) 2015*.

6. A Royalty Ruling is not a conclusive statement of how the legislation or case law (the law) relates to a particular topic. Rather, a Royalty Ruling represents the interpretation of the law applied by the Commissioner during the period in which the Royalty Ruling is in effect. Accordingly, a Royalty Ruling does not override the terms of the legislation to which it relates, and does not act as an estoppel against the operation of the law.
7. Generally, a Royalty Ruling operates prospectively. An example of an exception to this is where a Royalty Ruling sets out the details of an approved administrative arrangement with a retrospective date of effect.
8. Although a Royalty Ruling may operate prospectively, an interpretation or practice set out in the Royalty Ruling may have existed prior to the date of its issue. Accordingly, unless the Royalty Ruling is stated to have retrospective effect:
 - (a) to the extent that a Royalty Ruling reflects the Commissioner's existing interpretation or practice, that interpretation or practice continuesand
 - (b) to the extent that a Royalty Ruling alters the Commissioner's existing interpretation or practice, the new interpretation or practice takes effect from a date on or after the date of issue, as nominated in the Royalty Ruling.
9. The terms of this Royalty Ruling will apply even if a particular Royalty Ruling has a retrospective date of effect that is before the date on which the Royalty Ruling system commenced.²
10. A Royalty Ruling contains, under the heading 'References', a table setting out the history of Royalty Rulings on the topic (the references table). The references table includes details of the period of effect of each version of the Royalty Ruling and, where views on the topic were previously contained in a Ministerial Statement, the details of the version of the Ministerial Statement in force immediately prior to the issue of the first version of the Royalty Ruling.

Royalty Ruling naming conventions

11. The naming convention adopted for Royalty Rulings in relation to a particular Act is:

(Abbreviated name of Act)(Ruling number).(Ruling version)
12. The abbreviations used in naming Act-specific Royalty Rulings are as follows:
 - (a) MRA—the Mineral Resources Act
 - (b) PGA—the PGPS Act.
13. The inclusion of a ruling number in the name of the Royalty Ruling recognises that the Commissioner may issue multiple Royalty Rulings in relation to different issues associated with an Act. Each such separate Royalty Ruling will have a distinct ruling number.

² The Royalty Ruling system commenced upon the Commissioner issuing Royalty Ruling ROY001.1—*Royalty Ruling system: explanation and status*.

14. Each time a new version of a particular Royalty Ruling is issued, the ruling version will be increased by one.

Example 1

Royalty Ruling MRA001.1 is the first version of the first Royalty Ruling that relates to the Mineral Resources Act.

If that Royalty Ruling is amended, the new version of the Royalty Ruling will be named 'Royalty Ruling MRA001.2'.

Alternatively, if a separate Royalty Ruling is issued that deals with another aspect of the Commissioner's interpretation or application of the Mineral Resources Act, the first version of that Royalty Ruling will be named 'Royalty Ruling MRA002.1'.

15. Unless it is necessary to refer to a specific version, a particular Royalty Ruling may be identified by its ruling number alone (e.g. Royalty Ruling MRA001).
16. In addition to Act-specific Royalty Rulings, the Commissioner may also issue Royalty Rulings that deal with both the Mineral Resources Act and the PGPS Act. The name of these general Royalty Rulings takes the form 'ROY(*Ruling number*).(*Ruling version*)'. The numbering protocol will be consistent with that for the other Royalty Rulings.
17. The naming convention for a proposed Royalty Ruling released in draft form is discussed in paragraph 20 below.

Draft Royalty Rulings

18. The Commissioner may decide to release a draft version of a proposed Royalty Ruling (draft Royalty Ruling) to the Resource Consultative Committee (RCC) and/or the public generally. The desirability, extent and duration of any such consultation will be determined by the Commissioner on a case-by-case basis.
19. Draft Royalty Rulings may not necessarily reflect the Commissioner's interpretation or practice as at the time of release for consultation. Accordingly, unless the draft Royalty Ruling is stated to have retrospective effect if issued as a final Royalty Ruling:
 - (a) to the extent that a draft Royalty Ruling reflects the Commissioner's existing interpretation or practice, that interpretation or practice continues
 - (b) to the extent that a draft Royalty Ruling alters the Commissioner's existing interpretation or practice, the new interpretation or practice will not take effect unless and until the draft Royalty Ruling is issued as a final Royalty Ruling.
20. A draft Royalty Ruling will have the letter 'D' appended to its name. If the draft Royalty Ruling is issued in final form, the letter 'D' will not be included in its name.

Example 2

The Commissioner prepares the first proposed Royalty Ruling in relation to the PGPS Act, and decides to release a draft of the Royalty Ruling to the RCC for comment.

When released in draft form, the Royalty Ruling will be named 'Royalty Ruling PGA001.1D'.

The Royalty Ruling is ultimately issued after the RCC consultation process, and is named 'Royalty Ruling PGA001.1'.

21. As a draft Royalty Ruling will not have effect, the words 'not current' will appear in the reference table.

Subsequent amendment to the law

22. Where a change in the law affects the content of a Royalty Ruling, the change in the law overrides the Royalty Ruling; that is, the Commissioner will determine the royalty liability in accordance with the law.
23. This is the case even if the Royalty Ruling has not been amended or withdrawn on account of the change in the law.

Withdrawal of Royalty Rulings

24. The version of a Royalty Ruling that is current at a particular time (the current version) may be withdrawn by the Commissioner by publication of a new version of that Royalty Ruling (the new version). As a general rule, the new version will take effect from the date specified in it, and the current version will remain in effect until immediately prior to the new version taking effect.
25. Alternatively, in the event that all of the Royalty Rulings in relation to a particular Act are to be withdrawn, the Commissioner may withdraw those Royalty Rulings by publication of a single general Royalty Ruling.

Date of effect

26. This Royalty Ruling takes effect from the date of issue.

Anthony Kulpa
Acting Commissioner, Office of State Revenue
Date of issue: 14 October 2015

References

Royalty Ruling	Issued	Dates of effect	
		From	To
Royalty Ruling ROY001.1	14 October 2015	14 October 2015	30 September 2020