

South Australia

Mining (Royalties) Amendment Act 2013

An Act to amend the *Mining Act 1971*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Mining (Royalties) Amendment Act 2013*.

2—Commencement

This Act will be taken to have come into operation on 1 July 2013.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Mining Act 1971*

4—Amendment of section 17D—When royalty falls due (general principles)

Section 17D—after subsection (1) insert:

- (1a) Subsection (1) does not apply to the extent that a designated mining operator under section 17DA must pay royalty on a monthly basis.
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5—Insertion of section 17DA

After section 17D insert:

17DA—Special principles relating to designated mining operators

- (1) In this section—
designated mining operator—see subsection (2);
half-year period means—
 - (a) 1 July to 31 December in a financial year; and
 - (b) 1 January to 30 June in a financial year.
- (2) A designated mining operator is a mining operator who, in relation to a particular financial year (the *relevant financial year*), is designated by the Minister, by notice served on the mining operator, as being a mining operator to whom this section applies.
- (3) The Minister may only make a designation under subsection (2) in relation to a mining operator if—
 - (a) the royalty paid by the mining operator in relation to the financial year immediately preceding the relevant financial year exceeds \$100 000, or is expected by the Minister to exceed \$100 000; or
 - (b) taking into account the amount of royalty paid by the mining operator, or expected by the Minister to be paid by the mining operator, in relation to the financial year immediately preceding the relevant financial year, the Minister expects that the royalty to be paid by the mining operator in relation to the relevant financial year will exceed \$100 000; or
 - (c) a mine in relation to which royalty payments are to be made was not in production during the financial year immediately preceding the relevant financial year, or is expected by the Minister to be subject to increased production in the relevant financial year, and the Minister expects that the royalty to be paid by the mining operator in relation to the relevant financial year will exceed \$100 000; or
 - (d) the Minister expects that the amount of royalty to be paid by the mining operator in relation to the relevant financial year will be within 5% of the \$100 000 threshold established by this section and accordingly determines to designate the mining operator as being a mining operator to whom this section applies.
- (4) For the purposes of subsection (3), the Minister may make or apply any estimate in order to determine whether or not it is expected that the royalty to be paid by a mining operator in relation to a particular financial year will (or will not) reach or exceed a particular amount.

- (5) A designated mining operator will, in relation to a relevant financial year, pay royalty on a monthly basis (rather than in accordance with section 17D(1)).
- (6) For the purposes of subsection (5)—
- (a) the Minister must, by 31 March immediately preceding the relevant financial year, serve a notice (a ***notice of assessment***) on each designated mining operator setting out the monthly payments of royalty that the mining operator must make for the relevant financial year (subject to the operation of the succeeding subsections); and
 - (b) the designated mining operator must then pay royalty on or before the last day of the month that immediately follows each month in the relevant financial year.
- (7) A monthly payment set out in a notice of assessment will be an amount which the Minister determines to be a reasonable amount taking into account an estimate made by the Minister of the amount of royalty that may be payable on account of the operation of sections 17 and 17A (as the case may require) in relation to the relevant financial year.
- (8) Subject to subsection (9), a monthly payment in relation to the last month of both half-year periods in a relevant financial year will be the amount set out in the notice of assessment for that month adjusted to take into account any overpayment, or under payment, of royalty that would otherwise occur over the half-year period after the applying the provisions of sections 17 and 17A (as the case may require) so as to ensure that the correct amount of royalty is paid in relation to the half-year period by the end of the month that immediately follows the end of that period.
- (9) If an adjustment under subsection (8) will otherwise result in an entitlement to a refund of an amount to be paid as royalty in relation to the relevant half-year period, the Minister may, at the Minister's discretion—
- (a) refund the amount of the excess to the mining operator who has been paying the monthly amounts; or
 - (b) set off the amount against a future liability to make payments of royalty under this Act.
- (10) The Minister may, on application by a person liable to pay royalty under this section or of his or her own motion—
- (a) by notice served on the mining operator, vary a notice of assessment that has been issued to a designated mining operator under this section, with the variation to have effect from a month in the relevant financial year specified by the Minister;
 - (b) extend the date on which royalty will fall due under this section.

Schedule 1—Transitional provision

1—Transitional provision

- (1) The Minister may, in relation to the 2013/2014 financial year—
 - (a) make any determination or estimate required for the purposes of section 17DA, as inserted into the *Mining Act 1971* by this Act, and serve any notice for the purposes of that section, at any time during the 2013/2014 financial year; and
 - (b) if a notice referred to in paragraph (a) is served on a mining operator, require the mining operator to make a payment of royalty under the scheme established by section 17DA, as inserted into the *Mining Act 1971* by this Act, with respect to a period specified by the Minister, according to an estimate made by the Minister, with the payment to be made by a date specified by the Minister (and thereafter monthly payments will apply); and
 - (c) by notice served on a mining operator, make any other provision of a transitional nature so that section 17DA of the *Mining Act 1971*, as inserted into that Act by this Act, may operate effectively (including so as to modify the operation of that section in relation to the 2013/2014 financial year).
- (2) Any determination, estimate or notice made or served by the Minister under subclause (1) will have effect according to its terms and despite the provisions of the *Mining Act 1971*.