

South Australia



ANNO QUADRAGESIMO NONO
ELIZABETHAE II REGINAE
A.D. 2000

MINING (ROYALTY) AMENDMENT ACT 2000

No. 13 of 2000

[Assented to 11 May 2000]

An Act to amend the Mining Act 1971.

SUMMARY OF PROVISIONS

1. **Short title**
2. **Commencement**
3. **Amendment of s. 17—Royalty**
4. **Amendment of s. 76—Returns**

The Parliament of South Australia enacts as follows:**Short title**

1. (1) This Act may be cited as the *Mining (Royalty) Amendment Act 2000*.
- (2) The *Mining Act 1971* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 17—Royalty

3. Section 17 of the principal Act is amended—

- (a) by striking out subsections (2), (3) and (4) and substituting the following subsections:

(2) Royalty will be equivalent to the prescribed percentage of the value of the minerals as assessed at the mine gate.

- (3) The Minister may—

- (a) fix the prescribed percentage by notice published in the *Gazette*; and
- (b) by subsequent notice in the *Gazette*, vary the prescribed percentage so fixed.

(4) The prescribed percentage must be at least 1.5 per cent but must not exceed 2.5 per cent.

(4a) The value of minerals at the mine gate is a value which, in the opinion of the Minister, fairly represents the amount that could reasonably be expected to be realised on the sale of the minerals at the time that the minerals leave the area of the mining tenement or private mine (as the case may be) (but this value will not include any handling, transportation or other similar costs associated with delivering the minerals to a purchaser).

- (4b) The Minister may, on application or on the Minister's own initiative—

- (a) review and revise an earlier assessment of the value of minerals at the mine gate (and that revision will then be taken to be a new assessment for the purposes of this section);
- (b) reduce the prescribed percentage to be applied in a particular case in order to take into account processing carried out before the minerals leave the area of the mining tenement or private mine (and the Minister may then vary this prescribed percentage if circumstances subsequently change).

(4c) The Minister must cause notice of a decision to reduce the rate of royalty payable in a particular case to be published in the *Gazette*.

- (4d) A notice under subsection (4c) must—

- (a) set out the name of the person to whom the reduction of the rate of royalty applies; and

- (b) identify the relevant mining tenement or private mine, and the relevant minerals; and
- (c) state the rate of royalty that is to apply in the particular case.;

(b) by striking out from subsection (6) "60 days" and substituting "one month";

(c) by inserting after subsection (11) the following subsections:

(12) If royalty payable on minerals under this section (other than extractive minerals recovered from a private mine) has remained unpaid for more than three months after the day on which it fell due, the person liable to pay the royalty is liable to pay a penalty amount, in addition to the amount of royalty unpaid, equal to \$1 000 plus \$200 for each month (or part of a month) for which the royalty remains unpaid (disregarding the first three months after the day on which the royalty fell due).

(13) The Minister may, at the Minister's discretion, remit a penalty amount payable under subsection (12) by any amount.

(14) Without derogating from any other right of recovery of royalty, for the purposes of the imposition of a penalty amount for unpaid royalty under this Act (including in respect of extractive minerals recovered from a private mine), royalty will be taken to have fallen due—

- (a) in respect of minerals recovered between 1 January and 30 June (both dates inclusive) in any year—on 31 July of that year;
- (b) in respect of minerals recovered between 1 July and 31 December (both dates inclusive) in any year—on 31 January of the year immediately following,

subject to the qualification that if the calculation of royalty for a particular period under paragraph (a) or (b) depends on the Minister serving a notice of assessment under subsection (5) after the expiration of the period then the royalty will not fall due until one month after the service of that notice (or, if an appeal is lodged under subsection (6), until one month after the appeal is determined).

(15) Despite subsection (14), any royalty on minerals recovered from land within a mining tenement or private mine will be or become due and payable (including for the purposes of the imposition of a penalty amount for unpaid royalty under this Act)—

- (a) in the case of a mining tenement—
 - (i) when the mining tenement is being transferred or surrendered; or
 - (ii) when the mining tenement is suspended or cancelled; or
 - (iii) when the mining tenement expires; or
- (b) in the case of a private mine—when the declaration of the relevant area as a private mine is revoked; or
- (c) at any other time in accordance with the regulations (if any).

(16) For the purposes of the assessment of royalty under this section, a reference to minerals includes a reference to processed minerals.

Amendment of s. 76—Returns

4. Section 76 of the principal Act is amended—

(a) by inserting at the foot of subsection (2)—

Expiation fee: \$105.;

(b) by inserting after subsection (2) the following subsection:

(2a) In the case of a continuing failure to complying with this section in a particular case, a person will be guilty of a further offence for each month for which the failure continues.

Maximum penalty: \$750.

Expiation fee: \$105.