

NORTHERN TERRITORY OF AUSTRALIA

MINERAL ROYALTIES ACT 2024

Act No. 12 of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 12 of 2024

An Act to impose a royalty on minerals extracted in the Territory after 1 July 2024, to make consequential amendments to the *Mineral Royalty Act 1982* and the *Taxation Administration Act 2007* and for related purposes

[Assented to 11 June 2024]
[Introduced 14 March 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Mineral Royalties Act 2024*.

2 Commencement

This Act commences on 1 July 2024.

3 Definitions

In this Act:

arm's length terms, see section 4.

Australian Dollar Equivalent, see section 5(1).

category, in relation to a mineral, means a category specified in section 9.

Commissioner of Territory Revenue means the person holding or acting in the office of Commissioner of Territory Revenue under the *Taxation Administration Act 2007*.

exchange rate, see section 5(2).

extract, in relation to a mineral, means:

- (a) to mine, remove or obtain the mineral from the earth, including earth under water; or
- (b) to recover or obtain the mineral from tailings or mine waste previously mined, removed or obtained.

extractive mineral exploration licence, see section 46(1) of the *Mineral Titles Act 2010*.

extractive mineral lease, see section 54(1) of the *Mineral Titles Act 2010*.

extractive mineral permit, see section 50(1) of the *Mineral Titles Act 2010*.

genuine sale, see section 6.

mineral, see section 7.

mineral authority, see section 118(2) of the *Mineral Titles Act 2010*.

mineral exploration licence, see section 26(1) of the *Mineral Titles Act 2010*.

mineral exploration licence in retention, see section 34(3) of the *Mineral Titles Act 2010*.

mining operation means:

- (a) a mining tenement; or
- (b) 2 or more mining tenements operated as part of an integrated operation.

mining tenement means a right, by whatever name known, to obtain minerals from land, granted or continued in force by or under a law in force in the Territory, whether granted before or after the commencement of this Act, and includes the land to which the right relates, but does not include any of the following:

- (a) a mineral exploration licence;
- (b) a mineral exploration licence in retention;
- (c) an extractive mineral exploration licence;

- (d) a mineral authority that corresponds to a licence mentioned in paragraphs (a) to (c);
- (e) a non-compliant existing interest, as defined in section 204(1) of the *Mineral Titles Act 2010*, the sole purpose of which is to authorise an activity that may be conducted under a licence mentioned in paragraphs (a) to (c).

quarter means the 3-month period ending on the last day of March, June, September or December in any royalty year.

royalty means the royalty payable on a mineral under this Act.

royalty determination date, see section 8.

royalty rate, see section 13.

royalty year, in relation to a holder of a mining tenement, means the 12-month period for which the accounts of the holder are ordinarily made up.

sale, in relation to a mineral, includes a transfer of ownership of the mineral in exchange for consideration other than money.

shipping costs, in relation to a mineral, are freight charges, dead freight costs or insurance costs incurred in transporting the mineral to the purchaser of the mineral.

treatment, in relation to a mineral, means primary, secondary or final treatment as referred to in the categories specified in section 9.

value, see section 15.

Note for section 3

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

4 Meaning of *arm's length terms*

A transaction entered into by a party is on ***arm's length terms*** if the terms of the transaction are no less favourable to the party than those that would be agreed to by a third party in an arm's length transaction under similar circumstances.

5 Meaning of *Australian Dollar Equivalent* and *exchange rate*

- (1) The ***Australian Dollar Equivalent***, in relation to an amount of money that is stated in a foreign currency, means the amount determined by converting the foreign currency amount into Australian dollars at the exchange rate applying at the time the

foreign currency amount was earned, receivable or incurred.

- (2) The **exchange rate**, in relation to an amount of money that is stated in a foreign currency, means one of the following rates selected by the holder of the mining tenement in good faith and on a consistent basis:
- (a) the closing daily representative rate for the relevant day, as published by the Reserve Bank of Australia;
 - (b) the buy rate for the foreign currency, as quoted by a major Australian trading bank;
 - (c) another rate determined by the Commissioner of Territory Revenue.

6 **Meaning of *genuine sale***

Genuine sale, in relation to the sale of a mineral, service or item, means:

- (a) the mineral, service or item is sold by one party and purchased by another party; and
- (b) each party is knowledgeable and willing; and
- (c) each party is acting severally, independently, prudently and without compulsion.

7 **Meaning of *mineral***

A **mineral** means any of the following:

- (a) a naturally occurring inorganic element or compound (including an inorganic carbonate compound) or organic carbonate compound that is extracted or extractable from land by mining, whether carried out under or on the surface of the land;
- (b) coal and lignite;
- (c) a mineral prescribed by regulation.

8 **Royalty determination date**

The **royalty determination date** for determining the royalty rate applicable to a mineral is:

- (a) the day ownership in the mineral is first transferred while in the Territory in a genuine sale on arm's length terms; or

- (b) if ownership in the mineral is not transferred while in the Territory in a genuine sale on arm's length terms – the later of the following:
 - (i) the day the mineral leaves the mining operation from which the mineral was extracted;
 - (ii) the day the mineral receives its last treatment in the Territory.

Example for section 8(b)(ii)

Copper ore is extracted but is not transferred while in the Territory in a genuine sale on arm's length terms. It is given secondary treatment in the Territory. As a result, the royalty determination date is the day the copper ore becomes copper concentrate. The royalty rate would be 5.0% for copper concentrate.

9 Categories of mineral

- (1) **Category 1**, in relation to a mineral, means the mineral receives only primary treatment that:
 - (a) prepares the material for further processing; and
 - (b) improves the mineral's consistency for sale; and
 - (c) provides a consistent feedstock for further processing of the mineral.

Examples of primary treatment for subsection (1)

Crushing, screening, blending and product handling.

- (2) **Category 2**, in relation to a mineral, means the mineral receives only secondary treatment consisting of concentration and ore dressing that reduces the particle size and increases the concentration of the mineral primarily through physical processes.

Examples of concentration and ore dressing for subsection (2)

Gravity separation or flotation.

- (3) **Category 3**, in relation to a mineral, means the mineral receives only secondary treatment consisting of metallurgical treatment, chemical treatment or combinations of biological, chemical and heat treatments prior to final treatment.

Note for subsection (3)

Metallurgical treatment can require high temperatures and pressure treatment with a variety of chemical and energy inputs.

- (4) **Category 4**, in relation to a mineral, means the mineral receives final treatment consisting of refining or other advanced metallurgical processing to produce a mineral suitable for its major end use.

10 Application of Act

- (1) Subject to this section, this Act applies in relation to minerals vested in the Crown in right of the Territory that are extracted on or after 1 July 2024.
- (2) This Act does not apply to the following:
- (a) subject to subsection (5), any mineral extracted from a production unit:
 - (i) to which the *Mineral Royalty Act 1982* applied immediately before 1 January 2024; and
 - (ii) from which a mineral was extracted at any time during the 12 months prior to 1 January 2024;
 - (b) any mineral extracted from a mining tenement, whether granted before or after 1 July 2024, that commenced operations as part of the integrated operation of a production unit mentioned in paragraph (a);
 - (c) any mineral extracted under Special Mineral Lease 11 held by Gove Aluminium Limited and Swiss Aluminium Australia Limited and dated 30 May 1969;
 - (d) any mineral to which any of the following apply:
 - (i) the *Merlin Project Agreement Ratification Act 1998*;
 - (ii) the *McArthur River Project Agreement Ratification Act 1992*;
 - (iii) the *Uranium Royalty (Northern Territory) Act 2009* (Cth);
 - (iv) the *Atomic Energy Act 1953* (Cth).

Note for subsection (2)(a)(ii)

A production unit that was not actively extracting minerals at any time during the 12 months prior to 1 January 2024 and that recommences extracting minerals after that date is subject to this Act.

- (3) This Act does not apply to soil, or to sand, gravel, clay or stone suitable for use in construction or building works, that:
- (a) is extracted under an extractive mineral permit; or

- (b) is extracted under an extractive mineral lease; or
- (c) is extracted under a mineral authority that corresponds to a permit or lease mentioned in paragraph (a) or (b); or
- (d) is extracted as a by-product or secondary purpose for a mining operation, or is consumed or used in a mining operation, by the holder of a mining tenement and does not leave the mining operation.

Example for subsection (3)(d)

Gravel that is found and extracted from a mine the primary purpose of which is to extract gold.

- (4) This Act does not apply to a mineral fossicked in accordance with section 135 of the *Mineral Titles Act 2010*.
- (5) Despite subsection (2), this Act applies to any mineral extracted from a production unit or mining tenement referred to in subsection (2)(a) or (b) that is prescribed by regulation.
- (6) In this section:

production unit, see section 4 of the *Mineral Royalty Act 1982*.

11 Application of *Taxation Administration Act 2007*

The *Taxation Administration Act 2007* applies to a royalty as if:

- (a) a reference in that Act to tax were a reference to royalty; and
- (b) a reference in that Act to a taxpayer were a reference to a holder of a mining tenement; and
- (c) a reference in that Act to a taxation law included a reference to this Act; and
- (d) a reference in that Act to a corresponding law in Parts 9 and 10 included a reference to a law of the Commonwealth, a State or another Territory corresponding to this Act.

Part 2 Mineral royalties

12 Liability for royalty

- (1) The holder of a mining tenement is liable to pay a royalty at the royalty rate on any mineral extracted by the holder from a mining operation.

- (2) The liability for the royalty arises on the later of the following:
- (a) the day the mineral leaves the mining operation from which the mineral was extracted;
 - (b) if ownership in the mineral is transferred in a genuine sale on arm's length terms – the day the mineral receives its last treatment in the Territory before that sale.

13 Royalty rate

- (1) The **royalty rate** for a mineral extracted from a mining operation is the rate specified in Schedule 1 opposite the mineral.
- (2) If a mineral is not specified in Schedule 1, the royalty rate is the rate specified in Schedule 2 opposite the category of the mineral.
- (3) If the royalty rate for a mineral cannot be determined under subsection (1) or (2), the royalty rate is 7.5%.
- (4) If the royalty determination date is the day a mineral receives its last treatment in the Territory under section 8(b)(ii), the royalty rate is the rate applicable to the category of the mineral after that treatment.

14 Calculation of royalty amount

- (1) The royalty amount for a mineral is the value of the mineral, minus any deduction allowed under section 16 for shipping costs for the mineral, multiplied by the royalty rate for the mineral as it existed on the royalty determination date.

Example for subsection (1)

Alumina is extracted but is not transferred while in the Territory in a genuine sale on arm's length terms and is not given further treatment. After leaving the Territory it is sold in a genuine sale on arm's length terms. The value under section 15 would be the sale price. The royalty rate is the rate applicable to the alumina as it existed on the day the mineral left the mining operation. The royalty rate would be 3.5%.

- (2) No deduction greater than the value of the mineral is allowed in a royalty year.

Note for subsection (2)

A deduction under section 16 cannot be used to reduce the royalty amount to an amount less than zero.

15 Calculation of value

- (1) The **value** of a mineral extracted from a mining operation in a royalty year is:
- (a) if ownership in the mineral is transferred in a genuine sale on arm's length terms – the price (in Australian dollars or Australian Dollar Equivalent) of the mineral obtained under the contract of sale for the mineral; or
 - (b) if ownership in the mineral is transferred but not in a genuine sale on arm's length terms and ownership of the mineral is subsequently transferred by the purchaser in a genuine sale on arm's length terms – the price (in Australian dollars or Australian Dollar Equivalent) of the mineral obtained under the subsequent contract of sale for the mineral; or
 - (c) if the mineral is lost before ownership in the mineral is transferred – any amount received by way of insurance, indemnity or guarantee for, or in respect of, the loss of the mineral; or
 - (d) if none of the circumstances mentioned in paragraph (a), (b) or (c) apply in relation to the mineral:
 - (i) any price quoted or obtained on the royalty determination date in a market recognised by the Commissioner of Territory Revenue as being a relevant industry market for the purposes of determining the market value of minerals of that kind; or
 - (ii) if subparagraph (i) does not apply – the market value of the mineral on the royalty determination date; or
 - (iii) if subparagraphs (i) and (ii) do not apply – the price for the mineral on the royalty determination date determined by the Commissioner of Territory Revenue or by a method determined by the Commissioner of Territory Revenue; or
 - (iv) if subparagraphs (i), (ii) and (iii) do not apply – the estimate by the holder of the mining tenement of the reasonable value of the mineral on the royalty determination date determined in accordance with requirements determined by the Commissioner of Territory Revenue.

-
- (2) Subject to subsection (3), any amount that affects the calculation of the value is calculated exclusive of:
 - (a) any GST; and
 - (b) any shipping costs.
 - (3) The amount or value of an acquisition that relates to a supply that is input taxed is calculated inclusive of GST.
 - (4) In this section:

acquisition, see section 11-10 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST, see section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

input taxed, see section 9-30 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

market value, of a mineral, means the estimated amount (in Australian dollars or Australian Dollar Equivalent) for which the mineral should exchange, on the royalty determination date, in a genuine sale on arm's length terms, after proper marketing.

supply, see section 9-10 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

16 Deduction for shipping costs for transport in Territory

- (1) The amount allowed to be deducted in calculating the royalty amount under section 14(1) is the amount of any shipping costs for transporting the mineral to:
 - (a) a purchaser in the Territory; or
 - (b) in the case of a purchaser outside the Territory – the border of the Territory.
- (2) For subsection (1), no deduction is allowed for any costs or charges:
 - (a) for transporting the mineral from a mining operation to a place outside the mining operation for treatment before the sale of the mineral; or
 - (b) for transporting the mineral outside the Territory; or
 - (c) for which the holder of the mining tenement, or a related party of the holder, received reimbursement or compensation; or

- (d) that were charged to or paid by another person; or
 - (e) that were incurred in a different royalty year.
- (3) For subsection (1), shipping costs must be incurred by the holder of the mining tenement, or a related party of the holder, on arm's length terms with no mark up.
- (4) To avoid doubt, any cost or charge that is taken into account in the valuation of a mineral under section 15 cannot be claimed as a deduction under this section.
- (5) No deduction is allowed more than once in respect of the amount of any one cost or charge, whether the amount was expended or incurred for the same royalty year or a different royalty year, despite the amount:
- (a) falling under more than one head of cost; or
 - (b) being reflected or capable of being reflected in the financial accounts relating to the mining operation in more than one form.

17 Royalty instalments

The holder of a mining tenement must pay the amount of the royalty for which the holder is liable:

- (a) by quarterly instalments within 30 days after the end of each quarter; or
- (b) in accordance with any other arrangement the Commissioner of Territory Revenue approves.

18 Amount of quarterly instalments

- (1) Each quarterly instalment of a royalty for a royalty year is calculated under section 14 and based on the value of the minerals extracted in the quarter.
- (2) The calculation of the value of the mineral under subsection (1) is determined in accordance with section 15 as if a reference in that section to the royalty year were a reference to a quarter.

19 Annual adjustment of royalty paid

- (1) If the amount of the royalty paid by the holder of a mining tenement under section 18 in a royalty year is greater than the correct amount of royalty payable by the holder in respect of the royalty year, the holder is entitled to a refund equal to the difference.

- (2) If the amount of royalty paid or payable by the holder of a mining tenement under section 18 in a royalty year is less than the correct amount of royalty payable by the holder in respect of the royalty year, the holder must pay as royalty an amount equal to the difference.

Part 3 Miscellaneous matters

20 Registration by holder of mining tenements

- (1) The holder of a mining tenement must register with the Commissioner of Territory Revenue within 30 days after the holder starts extracting a mineral from the tenement.
- (2) Registration under this section must be in the form approved by, and manner determined by, the Commissioner of Territory Revenue.
- (3) The Commissioner of Territory Revenue may cancel the registration of the holder of the mining tenement if:
 - (a) mineral extraction ceases following a permanent shutdown of operations under the mining tenement; or
 - (b) the mining tenement is transferred to another person; or
 - (c) the registration is not required for any other reason.

21 Notification of events

- (1) The holder of a mining tenement must notify the Commissioner of Territory Revenue within 30 days after the day:
 - (a) the holder ceases extracting a mineral during an extended or permanent shutdown of operations in a mining operation; or
 - (b) the holder recommences extracting a mineral after an extended or permanent shutdown of operations in a mining operation; or
 - (c) there is a change in ownership of the mining tenement.
- (2) Notification under this section must be in the form approved by, and manner determined by, the Commissioner of Territory Revenue.

22 Lodgement of returns

- (1) The holder of a mining tenement must lodge a royalty return with the Commissioner of Territory Revenue within 30 days after the end of a royalty year for the holder of the mining tenement.
- (2) The holder of a mining tenement must also lodge a royalty return with the Commissioner of Territory Revenue within 30 days after the day:
 - (a) the holder of the mining tenement ceases extracting a mineral during an extended or permanent shutdown of operations in a mining operation; or
 - (b) there is a change in ownership of the mining tenement.
- (3) On application, the Commissioner of Territory Revenue may waive the requirement to lodge a royalty return under subsection (2) if:
 - (a) the requirement is triggered by a change in ownership of the mining tenement; and
 - (b) the change does not interrupt the operation of the mining operation or the accounts relating to mineral extraction.
- (4) A royalty return must be lodged in the form approved by, and manner determined by, the Commissioner of Territory Revenue.
- (5) If a mining operation has more than one holder of a mining tenement or more than one mining tenement:
 - (a) a single royalty return must be lodged for the mining operation; and
 - (b) the holders of the mining tenements may authorise a single person to lodge the royalty return; and
 - (c) the lodgement of a single royalty return for the mining operation does not affect the joint and several liability of each holder to pay royalty for the mineral extracted from the mining operation.

23 Powers of Commissioner of Territory Revenue

The Commissioner of Territory Revenue may:

- (a) recognise markets and determine prices, methods and the requirements for making an estimate of value under section 15(1)(d)(iii) and (iv); and

- (b) determine the information and manner required for:
 - (i) the registration of a holder of a mining tenement under section 20; and
 - (ii) the notification of an event under section 21; and
 - (ii) the lodgement of a royalty return under section 22; and
- (c) approve forms and other matters required for this Act.

24 Regulations

- (1) The Administrator may make regulations under this Act.

Note for subsection (1)

See section 65 of the Interpretation Act 1978.

- (2) A regulation may:
 - (a) provide for matters of a transitional nature to allow or facilitate the transition of a mineral referred to in section 10(5) from the operation of the *Mineral Royalty Act 1982* to this Act; and
 - (b) prescribe fees payable under this Act; and
 - (c) apply, adopt or incorporate, with or without changes, the whole or part of a document as in force or existing at a particular time or from time to time.

Part 4 Consequential amendments

Division 1 Amendment of Mineral Royalty Act 1982

25 Act amended

This Division amends the *Mineral Royalty Act 1982*.

26 Section 3 amended (Application)

After section 3(1)

insert

- (1A) This Act does not apply to any mineral or mining tenement that is subject to the *Mineral Royalties Act 2024*.

Note for subsection (1A)

This Act does apply to production units from which a mineral was extracted at any time during the 12 months prior to 1 January 2024. However, the Act would cease to apply to any production unit that is later prescribed by regulation under the Mineral Royalties Act 2024.

27 Section 50 amended (Secrecy)

- (1) Section 50(2)(a)

omit, insert

- (a) the Secretary or a person authorised by the Secretary to another Territory employee for purposes related to the administration or enforcement of this Act; or

- (2) After section 50(2)(d)

insert

- (da) a Territory employee, in the course of official functions for purposes related to the *Commonwealth Grants Commission Act 1973* (Cth), to the following:

- (i) another Territory employee;
- (ii) the Commonwealth Grants Commission (**CGC**) established under the *Commonwealth Grants Commission Act 1973* (Cth);
- (iii) a third party designated by the CGC, in relation to information requested by the CGC; or

Division 2 Amendment of Taxation Administration Act 2007

28 Act amended

This Division amends the *Taxation Administration Act 2007*.

29 Section 102 amended (Prohibition on certain disclosures of information by tax officers)

After section 102(2)(b)

insert

- (ba) a disclosure to the Commonwealth in relation to the payment of a royalty amount under the *Mineral Royalties Act 2024* by a holder of a mining tenement on Aboriginal land, as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);
- (bb) a disclosure to the Commonwealth Grants Commission (**CGC**) established under the *Commonwealth Grants Commission Act 1973* (Cth), or a third party designated by the CGC, in relation to information requested by the CGC;

Division 3 Repeal of Part

30 Repeal of Part

This Part is repealed on the day after it commences.

Schedule 1 Royalty rates

section 13(1)

Mineral	Royalty rate
Alumina	3.5%
Aluminium	2.5%
Bauxite	7.5%
Chromite (concentrate)	5.0%
Coal	7.5%
Cobalt (concentrate)	5.0%
Cobalt (metal)	2.5%
Copper (crushed or screened material)	7.5%
Copper (concentrate)	5.0%
Copper (metal)	2.5%
Diamond	5.0%
Feldspar	5.0%
Ferrovandium	2.5%
Garnet	5.0%
Gems and precious stones	7.5%
Gold (nuggets)	7.5%
Gold (gravity recovery)	5.0%
Gold (doré)	3.5%
Graphite (flake concentrate)	5.0%
Graphite (spherical)	3.5%
Ilmenite	5.0%
Iron ore (crushed or screened material)	7.5%

Mineral	Royalty rate
Iron ore (beneficiated)	5.0%
Iron ore (magnetite)	5.0%
Kaolin	5.0%
Lead (concentrate)	5.0%
Lead (metal)	2.5%
Leucoxene	5.0%
Limestone	7.5%
Lithium (crushed or screened material)	7.5%
Lithium (concentrate)	5.0%
Lithium (hydroxide and carbonate)	3.5%
Magnesium (crushed or screened material)	7.5%
Magnesium (concentrate)	5.0%
Magnesium (calcined magnesia)	3.5%
Magnesium (metal)	2.5%
Manganese (crushed or screened material)	7.5%
Manganese (beneficiated)	5.0%
Molybdenum (concentrate)	5.0%
Molybdenum (metal)	2.5%
Nickel (crushed or screened material)	7.5%
Nickel (concentrate)	5.0%
Nickel (metal)	2.5%
Ochre	5.0%
Platinoids (metal)	2.5%
Phosphate (crushed or screened material)	7.5%
Phosphate (concentrate)	5.0%

Mineral	Royalty rate
Phosphoric acid	3.5%
Quicklime	3.5%
Rare earths (concentrate)	5.0%
Rare earths (oxide)	2.5%
Rare earths (metal)	2.5%
Rutile	5.0%
Salt	2.5%
Semi-precious stones (including specimen stones)	7.5%
Silicon (metal)	2.5%
Silver (concentrate)	5.0%
Silver (doré)	3.5%
Silver (metal)	2.5%
Spongolite	5.0%
Tantalum (concentrate)	5.0%
Titanium (slag or dioxide)	3.5%
Titanium (metal)	2.5%
Tungsten (concentrate)	5.0%
Tungsten (metal)	2.5%
Tin (concentrate)	5.0%
Tin (metal)	2.5%
Vanadium (concentrate)	5.0%
Vanadium (pentoxide)	3.5%
Zinc (concentrate)	5.0%
Zinc (metal)	2.5%

Mineral	Royalty rate
Zircon	5.0%

Schedule 2 Royalty rates for categories of minerals

section 13(2)

Category of mineral	Royalty rate
Category 1	7.5%
Category 2	5.0%
Category 3	3.5%
Category 4	2.5%
