



Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to sections 105 and 105A of the Crown Minerals Act 1991, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Energy and Resources, makes the following regulations.

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Regulations

1 Title

These regulations are the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013.

2 Commencement

These regulations come into force on 23 May 2013.

3 Principal regulations

These regulations amend the Crown Minerals (Royalties for Petroleum) Regulations 2013 (the **principal regulations**).

4 Regulation 3 amended (Application)

In regulation 3(3), replace “any term” with “terms”.

5 Regulation 4 amended (Interpretation)

- (1) In regulation 4(1), definition of **fixed asset**, paragraph (b), replace “or equipment” with “and equipment”.
- (2) In regulation 4(1), insert in their appropriate alphabetical order:

“**Minister** means the Minister of Energy and Resources

“**net allowable APR deductions** means allowable APR deductions less capital proceeds

“**operating loss** has the meaning given in regulation 25(1)”.

6 Regulation 8 amended (Meaning of production costs)

In regulation 8(3), after “filing of the first”, insert “annual”.

7 Regulation 12 amended (Permit holder must pay royalties)

(1) Revoke regulation 12(2)(b)(ii) and (3).

(2) Replace regulation 12(2)(b)(iii) with:

“(iii) if in a gaseous state, has been injected into an underground gas storage facility that lies within the same permit area (until such time as petroleum is extracted and a royalty becomes payable under subclause (1)).”

8 Regulation 15 amended (Royalty payable on underground gas storage facility)

In regulation 15(1), after “facility” in the second place where it appears, insert “if any of the gas that is injected into the facility is mined from land outside the area of the permit”.

9 Regulation 17 amended (Gross sales revenues)

(1) In regulation 17(2)(a), replace “actual date on which the petroleum is physically transferred to the purchaser” with “date of delivery”.

(2) Revoke regulation 17(4).

(3) In regulation 17(5), replace “have not been determined on a fully” with “has not been determined on an”.

(4) In regulation 17(8), insert in its appropriate alphabetical order: “**date of delivery** means the actual date petroleum is physically delivered to a purchaser or a purchaser’s agent (as in free on board sales)”.

10 Regulation 18 amended (Netbacks and net forwards)

- (1) In regulation 18(2), after “deduct”, insert “from gross sales revenues”.
- (2) In regulation 18(3), replace “a fully” with “an”.

11 Regulation 20 amended (Calculation of accounting profits)

- (1) In regulation 20(1), replace “total” with “net”.
- (2) After regulation 20(3), insert:
“(3A) If capital proceeds exceed allowable APR deductions, the excess must be carried forward as a gain on disposal and applied against allowable APR deductions in subsequent reporting periods until it is fully written off.”
- (3) Replace regulation 20(5) with:
“(5) Royalties due in a reporting period are **provisional accounting profits royalties**, pending the calculation of the total decommissioning costs for the duration of the permit concerned. Once decommissioning costs carried back are taken into account (in accordance with regulation 26) the final accounting profits royalty must be determined.”
- (4) Revoke regulation 20(6).

12 Regulation 26 amended (Allowable deductions for decommissioning costs carried back and recapture of capital expenditure deductions)

Replace regulation 26(3) to (8) with:

- “(3) For the purposes of the final royalty return, after the deduction of any ongoing monitoring costs, capital proceeds must be subtracted from the decommissioning costs carried back.
- “(4) The subsequent balance must be divided over each reporting period of the life of the permit and allocated equally over each of those periods.
- “(5) Final accounting profits must be calculated for each reporting period with the allowable APR deductions for each reporting period adjusted to incorporate capital proceeds.
- “(6) If there is an operating loss in any of the reporting periods, the operating loss may be carried forward in accordance with regulation 25.

“(7) In subclause (3), **ongoing monitoring costs** means the costs related to any ongoing monitoring required from the permit holder under the Resource Management Act 1991, the amount of which the chief executive has agreed with the permit holder. In agreeing an amount, any bond or monetary deposit held by a local authority for that purpose may be taken into account.”

13 Regulation 27 amended (Provisions relating to capital proceeds)

(1) Replace regulation 27(1) with:

“(1) **Capital proceeds** are proceeds resulting—

“(a) from the hire, lease, or rent of tangible assets:

“(b) from the sale of tangible assets, the cost of which has previously been claimed as an allowable APR:

“(c) from insurance reimbursement resulting from loss of or damage to tangible assets (to the limit of the original cost of the tangible assets):

“(d) from proceeds of sale calculated in accordance with subclause (2) in respect of tangible assets to which that subclause applies.”

(2) Replace regulation 27(3) with:

“(3) If the total gain from capital proceeds exceeds allowable APR deductions, the excess must be carried forward and applied against allowable APR deductions in subsequent reporting periods until it is fully written off.

“(4) For the purposes of calculating the capital proceeds from the sale of land, the original value of the land for royalty purposes is the lesser of—

“(a) the actual land purchase price of that land; and

“(b) twice the rating valuation of that land at the commencement date of the permit or at the date on which the land was purchased, whichever occurred later.”

14 Regulation 29 amended (Carrying forward exploration costs)

In regulation 29(1)(a) and (b), after “filing of the first”, insert “annual”.

15 Regulation 31 amended (Arm's length value)

- (1) In regulation 31(2)(d), after "reporting period", insert "concerned".
- (2) In regulation 31(2)(l), replace "Inland Revenue Department" with "Commissioner of Inland Revenue".

16 Regulation 37 amended (Annual royalty return: contents)

- (1) In regulation 37(1)(c), after "a calculation of any", insert "net".
- (2) After regulation 37(1)(c)(vi), insert:
 "(vii) capital proceeds; and".
- (3) Replace regulation 37(1)(e) with:
 "(e) the permit number; and
 (f) a declaration signed by the permit holder stating that the annual royalty return is correct."

17 Regulation 38 amended (Final royalty return: contents)

- (1) In regulation 38(a), replace "regulation 37" with "regulation 37(1)(a) to (c)".
- (2) In regulation 38(b), after "details of any", insert "net".
- (3) After regulation 38(b)(vi), insert:
 "(vii) capital proceeds; and".

18 Regulation 39 amended (Royalty returns where permit holder 2 or more permit participants)

- In regulation 39(2)(b), replace "allowable" with "net allowable".

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 23 May 2013, amend the Crown Minerals (Royalties for Petroleum) Regulations 2013 in order to correct errors and to better align those regulations with corresponding provisions of the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 22 May 2013.

These regulations are administered by the Ministry of Business, Innovation, and Employment.
