

August 2024

## Fact Sheet

# Value of Coal Recovered Ministerial Determination 2024

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### Commencement of new Coal Determination

The *Value of Coal Recovered Ministerial Determination 2024* (the 2024 Determination), in pursuance of section 283(5) of the *Mining Act 1992* and dated 16 June 2024, took effect on 1 July 2024. This new Determination revokes and replaces the Ministerial Determination dated 31 December 2008 (the previous Determination) and outlines the manner for calculating the value of coal recovered.

The purpose of this Fact Sheet is to summarise the key changes in the 2024 Determination.

### Returns prepared on a mining lease basis

The mining legislation provides that the mining lease is the basis of the right to extract coal and the basis of royalty liability. The 2024 Determination clarifies that the value of coal recovered must be calculated by the leaseholder separately for each mining lease for which the leaseholder is liable to pay royalty unless a Revenue NSW Officer has given approval to do so on an alternative basis.

### Carry forward of negative royalty values

The previous Determination was silent on the ability of negative royalty assessments to be carried forward and/or offset against future periods. The 2024 Determination specifies that negative royalty values cannot be carried forward or used as an offset against assessable revenue for the purposes of determining the value of coal for any period.

### Beneficiation deductions

The previous Determination provided allowable deductions for the beneficiation costs of coal disposed of by a leaseholder at the following rates:

- \$3.50 per tonne for coal which has been subjected to a full cycle of washing
- \$2.00 per tonne for coal which has been subjected to a simple washing process such as wet jigging
- \$0.50 per tonne for coal which has been crushed and screened, but not subjected to a washing process.

The 2024 Determination increases the beneficiation rates with CPI indexation for three years from 1 July 2024. The new rates will be published on the [NSW Resources website](#) as soon as practicable after the publication of the prior year's CPI figures.

## **Bad debt**

The previous Determination allowed bad debts to be deducted against a leaseholder's royalty liability. The 2024 Determination removes bad debts as an allowable deduction as the leaseholder is the primary beneficiary of selling to riskier customers.

## **Blending of borrowed or purchased coal**

Leaseholders often blend coal they recover with borrowed or purchased coal from other leases. Borrowing may also occur between entities as part of normal business practice; for example, to blend coal recovered from different leases to meet quality specifications under a coal contract.

The 2024 Determination confirms the appropriate treatment of blended borrowed or purchased coal. While these practices may continue, the liability for royalty remains with the leaseholder who recovered the coal and needs to be calculated as such.

## **Provisional sales**

Provisional sales occur when the final sale value of coal will not be known within the royalty period; for example, where adjustments are made based on the quality of coal.

In this case, leaseholders must assign a value to that coal based on the provisional invoice amount, and when the final sale value of coal is known, either:

1. account for any difference between the provisional invoice amount and the final sale value in the later royalty period; or
2. amend the value of the coal in the prior return in which the provisional sale occurred, accounting for any difference in the final sale value.

## **Calculation of foreign exchange gains and losses**

The previous Determination was unclear on the foreign exchange rate to be used ('the hedge settlement rate') for calculating foreign exchange gains or losses. The 2024 Determination identifies reasonable external sources of exchange rates for the purpose of calculating foreign exchange gains or losses. The 2024 Determination also makes clear that in calculating the value of coal recovered it is the realised foreign exchange gains or losses which must be returned in the royalty period in which payment is received.

## **Related party transactions**

Under the previous Determination, for the purposes of royalty coal sold to related parties had to be valued as if the coal was sold in an arm's-length transaction. The arm's-length principle remains in the 2024 Determination, though leaseholders must now also notify an Authorised Officer of related party transactions in the relevant royalty return. This can be done via the document upload facility in the return.

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## Implementation of changes

The above changes will be required in the July 2024 royalty return, due 21 August 2024. While there is a short timeframe for commencement of the 2024 Determination, many of the changes from the previous Determination have already been implemented through operational reforms to the Royalty Online Services (ROS) system made by Revenue NSW.

Any questions in relation to the ROS system can be emailed to [mineralroyalty@revenue.nsw.gov.au](mailto:mineralroyalty@revenue.nsw.gov.au).

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