

MINERALS (ROYALTIES) REGULATIONS, 1987 (LI 1349).

IN exercise of the powers conferred on the Secretary responsible for Lands and Natural Resources by sections 22 and 83 of the Minerals and Mining Law, 1986 (P.N.D.C.L. 153) these Regulations are made this 29th day of July, 1987.

Regulation 1—Payment or Royalty.

Every holder of a mining lease shall be liable to pay royalty to the Republic in respect of his mining operations at the rate specified in the Schedule to these Regulations.

Regulation 2—Variation of Rate of Royalty.

(1) The rate of royalty payable under these Regulations shall be based on the profitability of the mining operations.

(2) Such profitability shall be determined by the application of the operating ratio, being the ratio as expressed in terms of percentage which the operating margin bears to the value of the minerals won from the mining operations during the yearly period.

(3) For the purpose of determining the operating margin of any mining operation, the operational cost shall be deducted from the total value of minerals won from such mining operations.

Regulation 3—Royalty Payments to be made Quarterly.

Every holder of a mining lease shall within thirty days after the expiration of every quarterly period pay to the Republic on account, royalties at the rate of three per centum of the gross value of minerals won in that quarter.

Regulation 4—Yearly returns of Mineral Production.

(1) Every person engaged in mining operations shall within thirty days after the expiration of every yearly period, submit to the Commissioner returns stating in detail the total value of minerals won by him from his mining operations during such yearly period.

(2) Such returns shall contain a signed declaration that the particulars contained in the returns are true and complete.

(3) The Commissioner may give notice in writing to any person engaged in mining operations to furnish him within the period specified in such notice fuller or further information as to any matter furnished in an earlier return or as to any other matter which the Commissioner may consider necessary for the purposes of these Regulations.

Regulation 5—End of Year Reconciliation.

Every holder of a mining lease shall, within sixty days after the expiration of each yearly period compute the royalties payable for the year based on the formula prescribed in the Schedule to these Regulations and shall pay to the Republic the difference, if any, between the computation based on the formula prescribed in the Schedule and the sum of all royalties paid by the holder in respect of that yearly period.

Regulation 6—Carry Forward of Operational Cost.

Where in any yearly period the operational ratio is less than thirty per centum then the difference between the actual operational cost and the operational cost that would make the operating ratio exactly equal to thirty centum shall be added to the operational cost of the following yearly period for the purpose of calculating that period's operating ratio; provided that the difference to be carried forward shall not exceed the permissible capital allowance for the year of account.

Regulation 7—Administration of Regulations.

These Regulations shall be administered by the Commissioner of Internal Revenue who shall be responsible for the assessment, collection, recovery of royalties, receipt of returns, and issues relating to objections, and may for those purposes apply with such modifications as may be necessary such provisions of the Income Tax Decree, 1975, (S.M.C.D. 5) or any other law generally applicable to the assessment, collection, returns and recovery of income tax.

Regulation 8—Payment into Consolidated Fund.

The Commissioner shall pay all royalties collected by him into the Consolidated Fund.

Regulation 9—Offences.

(1) Any person who —

(a) fails or refuses to pay any royalty payable by him under these Regulations;

(b) contravenes any of the provisions of these Regulations,

commits an offence and shall be liable to the same punishment for which a person might be liable for failure or refusal to pay income tax or for the contravention of such similar provision under the Income Tax Decree, 1975 (S.M.C.D. 5) or any other law generally applicable to the assessment, collection, returns or recovery of income tax.

(2) Notwithstanding sub-paragraph (1) of this paragraph where a person is found guilty of an offence under these Regulations the Secretary may in addition to any punishment which a Court may impose cancel or suspend the mining lease of such person.

Regulation 10—Interpretation.

In these Regulations unless the context otherwise requires—

"Commissioner" means the Commissioner of Internal Revenue"

"Court" includes a tribunal or other adjudicating body having jurisdiction in tax matters;

"mining lease" has the same meaning as in section 84 (1) of the Minerals and Mining Law, 1986 (P.N.D.C.L. 153);

"operational cost" in relation to any period means—

(a) the current expenditure wholly and exclusively incurred by the holder of the mining lease during that period for the purpose of mining, transporting, processing or sale of minerals won; provided that such current expenditure shall not include—

(i) any royalty under these Regulations;

- (ii) any income tax or other tax on profit whether imposed in Ghana or elsewhere;
 - (iii) any payment under any agreement between the Republic and any person on the value or, or receipts from, minerals won;
 - (iv) in the case of a company any expenditure incurred in respect of the management and control of the company which in the opinion of the Commissioner are not directly related to the operations of mining, transporting, processing or sale of the minerals won;
- (b) Capital allowances for the period deductible under the provisions of section 26 of the Minerals and Mining Law, 1986 (P.N.D.C. 153);

"processing" means the process by which the raw product of the mining operations are subject to any treatment designed to prepare them for use as such raw products;

"quarterly period" means in relation to any mining operation the period of three months immediately following from the commencement of these Regulations and thereafter each of the successive periods of three months or where a person commences mining operations after the commencement of these Regulations the first period of three months starting from the commencement of such mining operations and thereafter each of the successive periods of three months;

"Secretary" means the P.N.D.C. Secretary responsible for Lands and Natural Resources;

"value of minerals won" means the gross price at which such minerals are sold at the time of the sale;

"yearly period" means in relation to any mining operation the period of twelve months immediately following from the commencement of these Regulations and thereafter each of the successive periods of twelve months or where a person commences mining operations after the commencement of these Regulations, the first period of twelve months starting from the commencement of such mining operations and thereafter each of the successive periods of twelve months.

Regulation 11—Revocation.

The Minerals (Royalties) Regulations, 1986 (L.I. 1340) are hereby revoked.

Regulation 12—Commencement.

These Regulations shall be deemed to have come into force on the 4th day of July 1986.

SCHEDULE

Operating Ratio	Rate of Royalty
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(i) where the operating ratio is 30% or less 3%

(ii) where the operating ratio is more than 30% but less than 70% 3% plus 0.225 of every 1% by which the operating ratio exceeds 30%

(iii) where the operating ratio is 70% or more 12%

RICHARD KWAME PEPRAH

P.N.D.C. Secretary responsible for Lands and Natural Resources.

Date of Gazette Notification: 28th August, 1987.