

# Duties Amendment (Farm-in Agreements) Bill 2022

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Western Australia

LEGISLATIVE ASSEMBLY

**Duties Amendment (Farm-in Agreements)  
Bill 2022**

**A Bill for**

**An Act to amend the *Duties Act 2008*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Duties Amendment (Farm-in Agreements) Act 2022*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

5           (a) sections 1 and 2 — on the day on which this Act  
6                receives the Royal Assent;

7           (b) the rest of the Act — on the day after that day.

8   **3.     Act amended**

9           This Act amends the *Duties Act 2008*.

10 **4.     Section 9 amended**

11       (1) In section 9 delete the definitions of:

12           *exploration amount*

13           *farm-in agreement*

14       (2) In section 9 insert in alphabetical order:

15                           *concessional farm-in transaction* has the meaning  
16                           given in section 91K(1);

17                           *exploration requirement* has the meaning given in  
18                           section 91K(1);

19                           *farmee* has the meaning given in section 91K(1);  
20  
21

22 **5.     Section 11 amended**

23           Delete section 11(1)(j) and insert:

24                           (j) a concessional farm-in transaction.  
25  
26

1 **6. Section 13 deleted**

2 Delete section 13.

3 **7. Section 42 amended**

4 Delete section 42(15).

5 **8. Chapter 2 Part 5 Division 9 inserted**

6 At the end of Chapter 2 Part 5 insert:

7

8 **Division 9 — Farm-in agreements and farm-in**  
9 **transactions**

10 **Subdivision 1 — Preliminary**

11 **91J. Introduction to Division**

12 This Division —

- 13 (a) explains farm-in agreements, farm-in  
14 transactions and related concepts; and  
15 (b) includes various provisions dealing with the  
16 treatment of farm-in agreements and farm-in  
17 transactions for duty purposes.

18 **91K. Terms used**

19 (1) In this Division —

20 *concessional farm-in transaction* has the meaning  
21 given in section 91L(3), subject to section 91L(4),  
22 Subdivision 4 and section 91U;

23 *exploration* includes development that is carried out  
24 solely —

- 25 (a) for the purpose of facilitating exploration; or  
26 (b) otherwise incidentally to exploration;

- 1            **exploration amount** has the meaning given in  
2            section 91N(5), subject to section 91N(6);
- 3            **exploration licence** means an exploration licence  
4            granted under the *Mining Act 1978* section 57;
- 5            **exploration requirement** has the meaning given in  
6            section 91N(1) to (4), subject to section 91N(6);
- 7            **farmee** has the meaning given in section 91L(1)(b);
- 8            **farm-in agreement** has the meaning given in  
9            section 91L(1) and (2);
- 10           **farm-in transaction** has the meaning given in  
11           section 91M(1), subject to section 91M(2) to (5);
- 12           **farmor** has the meaning given in section 91L(1)(a);
- 13           **minerals** has the meaning given in the *Mining Act 1978*  
14           section 8(1);
- 15           **mining** has the meaning given in the *Mining Act 1978*  
16           section 8(1);
- 17           **primary farmor** —
- 18           (a) means a person who is the holder, or 1 of the  
19           holders, of a mining tenement; and
- 20           (b) includes a person (the **transferee**) who is not  
21           the holder, or 1 of the holders, of a mining  
22           tenement in a case where —
- 23           (i) there is a transfer of an interest in the  
24           mining tenement to the transferee in  
25           order to make the transferee the holder,  
26           or 1 of the holders, of the mining  
27           tenement; and
- 28           (ii) the transfer is still to be registered under  
29           the *Mining Act 1978* section 103C; and



- 1 (iii) but for the application of the *Mining*  
2 *Act 1978* section 103C(8) to the  
3 transfer, the transferee would be the  
4 holder, or 1 of the holders, of the mining  
5 tenement; and
- 6 (iv) subsection (2) of this section applies to  
7 the transfer;
- 8 and
- 9 (c) includes a person who is the applicant, or 1 of  
10 the applicants, under the *Mining Act 1978* for a  
11 mining tenement in a case where the  
12 application is still to be determined;
- 13 ***prospecting licence*** means a prospecting licence  
14 granted under the *Mining Act 1978* section 40;
- 15 ***purchase agreement*** has the meaning given in  
16 section 91M(9);
- 17 ***relevant derivative mining right***, in relation to a  
18 farm-in transaction, means a derivative mining right  
19 that is a relevant derivative mining right for the farm-in  
20 transaction under section 91M(1)(a)(ii), subject to  
21 subsection (3) of this section;
- 22 ***relevant mining tenement***, in relation to a farm-in  
23 transaction, means a mining tenement that is a relevant  
24 mining tenement for the farm-in transaction under  
25 section 91M(1)(a)(i), subject to subsection (3) of this  
26 section;
- 27 ***replacement derivative mining right*** has the meaning  
28 given in section 91M(7) and (8);
- 29 ***replacement mining tenement*** has the meaning given  
30 in section 91M(6);
- 31 ***vary***, in relation to an agreement, includes to modify  
32 the agreement's effect.

- 1           (2) This subsection applies to a transfer for the purposes of  
2 paragraph (b)(iv) of the definition of *primary farmor*  
3 in subsection (1) if —
- 4           (a) the transfer is made to the transferee —
- 5                 (i) under a farm-in transaction as  
6 contemplated in section 91M(1)(c)(i);  
7 and  
8                 (ii) without limiting subparagraph (i), after  
9 the transferee has fulfilled the  
10 exploration requirement;
- 11                         or
- 12           (b) the transfer is made to the transferee as a  
13 purchaser of the interest in the mining  
14 tenement.
- 15           (3) In sections 91M(1)(c) and (d) and (3) to (5), 91N(2)  
16 and (4), 91Q(2), 91T(3) and (4)(b) and 91V(1),  
17 references to a relevant mining tenement or relevant  
18 derivative mining right include, respectively —
- 19                 (a) a replacement mining tenement for the relevant  
20 mining tenement; or  
21                 (b) a replacement derivative mining right for the  
22 relevant derivative mining right.
- 23           (4) In this Division, references to a mining tenement or  
24 derivative mining right being granted to replace  
25 another mining tenement or derivative mining right  
26 include cases where the mining tenement or derivative  
27 mining right is granted in substitution, conversion or  
28 renewal of the other mining tenement or derivative  
29 mining right.
- 30           (5) In this Division, references to exploration of a mining  
31 tenement or derivative mining right are to exploration  
32 of land the subject of the mining tenement or derivative  
33 mining right.

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**Subdivision 2 — Explanation of farm-in agreements, farm-in transactions and related concepts**

**91L. Farm-in agreements and concessional farm-in transactions**

- (1) A *farm-in agreement* is an agreement, whether conditional or not, that is made between the following persons and contains 1 or more farm-in transactions —
  - (a) a person (the *farmor*) who is either or both of the following —
    - (i) a primary farmor for 1 or more mining tenements;
    - (ii) the holder, or 1 of the holders, of 1 or more derivative mining rights;
  - (b) another person (the *farmee*).
- (2) In addition to the 1 or more farm-in transactions, a farm-in agreement may contain other types of transactions.
- (3) A farm-in transaction contained in a farm-in agreement is a *concessional farm-in transaction*.
- (4) Despite subsection (3), a farm-in transaction contained in a farm-in agreement is not a *concessional farm-in transaction* if, when the farm-in agreement is made —
  - (a) the farmee —
    - (i) is a primary farmor for a relevant mining tenement; or
    - (ii) is the holder, or 1 of the holders, of a derivative mining right that authorises exploitation of land the subject of a relevant mining tenement; or
    - (iii) otherwise has any interest in a relevant mining tenement or in a derivative

- 1 mining right of the type referred to in  
2 subparagraph (ii);
- 3 or
- 4 (b) the farmee —
- 5 (i) is 1 of the holders of a relevant  
6 derivative mining right; or
- 7 (ii) is a primary farmor for a mining  
8 tenement to which a relevant derivative  
9 mining right relates; or
- 10 (iii) is the holder, or 1 of the holders, of a  
11 derivative mining right (other than a  
12 relevant derivative mining right) that  
13 authorises exploitation of land the  
14 subject of a mining tenement of the type  
15 referred to in subparagraph (ii); or
- 16 (iv) otherwise has any interest in a relevant  
17 derivative mining right, in a mining  
18 tenement of the type referred to in  
19 subparagraph (ii) or in a derivative  
20 mining right of the type referred to in  
21 subparagraph (iii).

22 **91M. Farm-in transactions and other concepts**

- 23 (1) A *farm-in transaction* is an agreement, whether  
24 conditional or not, to the effect that —
- 25 (a) as set out in paragraphs (b) to (d), the  
26 agreement relates to either or both of the  
27 following —
- 28 (i) the mining tenement, or 1 or more of the  
29 mining tenements, referred to in  
30 section 91L(1)(a)(i) (each such mining  
31 tenement to which the agreement relates  
32 being a *relevant mining tenement*);

- 1 (ii) the derivative mining right, or 1 or more  
2 of the derivative mining rights, referred  
3 to in section 91L(1)(a)(ii) (each such  
4 derivative mining right to which the  
5 agreement relates being a *relevant*  
6 *derivative mining right*);  
7 and  
8 (b) the farmee is to fulfil, or has the option of  
9 fulfilling, an exploration requirement; and  
10 (c) if paragraph (a)(i) applies — after the farmee  
11 fulfils the exploration requirement, the farmor  
12 is to do, or the farmee has the option of  
13 requiring the farmor to do, either or both of the  
14 following —  
15 (i) transfer to the farmee an interest in each  
16 relevant mining tenement;  
17 (ii) grant the farmee a derivative mining  
18 right in relation to each relevant mining  
19 tenement;  
20 and  
21 (d) if paragraph (a)(ii) applies — after the farmee  
22 fulfils the exploration requirement, the farmor  
23 is to arrange, or the farmee has the option of  
24 requiring the farmor to arrange, for the farmee  
25 to acquire an interest in each relevant derivative  
26 mining right.  
27 (2) Despite subsection (1), an agreement is not a *farm-in*  
28 *transaction* if —  
29 (a) otherwise than under a purchase agreement, the  
30 farmee is to acquire, or has the option of  
31 acquiring, a beneficial interest without fulfilling  
32 the exploration requirement; and  
33 (b) the beneficial interest corresponds (wholly or  
34 partly) to a legal interest that the farmee is to

- 1                   acquire, or has the option of acquiring, after  
2                   fulfilling the exploration requirement as  
3                   contemplated in subsection (1)(c)(i) or (ii)  
4                   or (d).
- 5           (3)   The requirement of subsection (1)(c)(i) is met only  
6           if —
- 7                   (a)   the agreement specifies —
- 8                           (i)   the interest or interests to be transferred;  
9                                   or  
10                           (ii)  the way in which the interest or interests  
11                                   are to be determined;
- 12                   and
- 13                   (b)   in relation to each relevant mining tenement,  
14                           the interest to be transferred is, or will be, such  
15                           that, were the transfer to be made, the farmor  
16                           and farmee would both be, or would still both  
17                           be, holders of the relevant mining tenement.
- 18           (4)   The requirement of subsection (1)(c)(ii) is met only  
19           if —
- 20                   (a)   the agreement specifies —
- 21                           (i)   the mining to be authorised by each  
22                                   derivative mining right; or  
23                           (ii)  the way in which that mining is to be  
24                                   determined;
- 25                   and
- 26                   (b)   in relation to each relevant mining tenement,  
27                           were the derivative mining right to be granted,  
28                           the grant would not result in the farmee having,  
29                           at any time, substantially the same authority to  
30                           carry out mining that the farmor has, at that  
31                           time, under the relevant mining tenement.

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- 1           (5) The requirement of subsection (1)(d) is met only if —
- 2                   (a) the agreement specifies —
- 3                           (i) the interest or interests to be acquired;
- 4                                   or
- 5                           (ii) the way in which the interest or interests
- 6                                   are to be determined;
- 7                           and
- 8                   (b) in relation to each relevant derivative mining
- 9                           right, the interest to be acquired is, or will be,
- 10                           such that, were it to be acquired, the farmor and
- 11                           farmee would both be, or would still both be,
- 12                           holders of the relevant derivative mining right.
- 13           (6) A **replacement mining tenement**, for a relevant mining
- 14                   tenement, is a mining tenement —
- 15                   (a) that is granted, after the making of the farm-in
- 16                           transaction concerned, to replace (wholly or
- 17                                   partly) —
- 18                                   (i) the relevant mining tenement; or
- 19                                   (ii) an earlier replacement mining tenement
- 20   for the relevant mining tenement; or
- 21                                   (iii) a mining tenement referred to in
- 22   subparagraph (i) or (ii), together with 1
- 23   or more other mining tenements each of
- 24   which is also a relevant mining
- 25   tenement for the farm-in transaction or a
- 26   replacement mining tenement for such a
- 27   relevant mining tenement;
- 28                           and
- 29                   (b) that relates only to the land, or to a part of the
- 30                           land, the subject of —
- 31                                   (i) the mining tenement that is replaced; or

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- 1 (ii) the mining tenements that are replaced
- 2 (taken together as if they were a single
- 3 mining tenement);
- 4 and
- 5 (c) of which the farmor is the holder or 1 of the
- 6 holders.
- 7 (7) ***A replacement derivative mining right***, for a relevant
- 8 derivative mining right, is a derivative mining right —
- 9 (a) that is granted, after the making of the farm-in
- 10 transaction concerned, to replace (wholly or
- 11 partly) —
- 12 (i) the relevant derivative mining right; or
- 13 (ii) an earlier replacement derivative mining
- 14 right for the relevant derivative mining
- 15 right; or
- 16 (iii) a derivative mining right referred to in
- 17 subparagraph (i) or (ii), together
- 18 with 1 or more other derivative mining
- 19 rights each of which is also a relevant
- 20 derivative mining right for the farm-in
- 21 transaction or a replacement derivative
- 22 mining right for such a relevant
- 23 derivative mining right;
- 24 and
- 25 (b) that relates only to the land, or to a part of the
- 26 land, the subject of —
- 27 (i) the derivative mining right that is
- 28 replaced; or
- 29 (ii) the derivative mining rights that are
- 30 replaced (taken together as if they were
- 31 a single derivative mining right);
- 32 and



- 1 (c) subject to subsection (8), that does not  
2 authorise any mining beyond the mining  
3 authorised by —
- 4 (i) the derivative mining right that is  
5 replaced; or
- 6 (ii) the derivative mining rights that are  
7 replaced;
- 8 and
- 9 (d) of which the farmor is the holder or 1 of the  
10 holders.
- 11 (8) The requirement of subsection (7)(c) does not have to  
12 be met if —
- 13 (a) the derivative mining right is granted in relation  
14 to a mining tenement (the ***new mining***  
15 ***tenement***) that was granted to replace (wholly  
16 or partly) another mining tenement (the  
17 ***previous mining tenement***); and
- 18 (b) the new mining tenement authorises mining  
19 beyond the mining authorised by the previous  
20 mining tenement; and
- 21 (c) the derivative mining right only authorises  
22 mining for minerals for which mining is  
23 authorised by —
- 24 (i) the derivative mining right that is  
25 replaced; or
- 26 (ii) the derivative mining rights that are  
27 replaced.
- 28 (9) A ***purchase agreement***, in relation to a farm-in  
29 transaction, is an agreement made between the farmor  
30 and farmee to the effect that —
- 31 (a) the farmee is to provide consideration, or has  
32 the option of providing consideration, to the  
33 farmor; and

- 1 (b) the providing of the consideration by the  
2 farmee would be in lieu of the farmee fulfilling  
3 a part (but not the whole) of the exploration  
4 requirement; and
- 5 (c) were the farmee to provide the consideration —  
6 the farm-in transaction would be varied —
- 7 (i) so as to reduce the exploration  
8 requirement by excluding the part  
9 referred to in paragraph (b); and
- 10 (ii) so that, accordingly, the reduced  
11 exploration requirement would become  
12 the exploration requirement for the  
13 farm-in transaction.

14 **91N. Exploration requirement and exploration amount**

- 15 (1) For the purposes of section 91M(1), an *exploration*  
16 *requirement* is a requirement to do either or both of the  
17 following after the farm-in transaction is made —
- 18 (a) expend, on exploration carried out by the  
19 farmee after the farm-in transaction is made, an  
20 amount that is specified in, or determined in  
21 accordance with, the farm-in transaction;
- 22 (b) carry out exploration as specified in, or  
23 determined in accordance with, the farm-in  
24 transaction.
- 25 (2) In subsection (1)(a) and (b), references to exploration  
26 are to —
- 27 (a) subject to paragraph (b) and subsection (4),  
28 exploration that consists, and only consists, of  
29 the following —
- 30 (i) if only section 91M(1)(a)(i) applies —  
31 exploration of each relevant mining  
32 tenement;

- 1 (ii) if only section 91M(1)(a)(ii) applies —  
2 exploration of each relevant derivative  
3 mining right;
- 4 (iii) if both section 91M(1)(a)(i) and (ii)  
5 apply — exploration of each relevant  
6 mining tenement and each relevant  
7 derivative mining right;
- 8 and
- 9 (b) in relation to exploration of a relevant  
10 derivative mining right, exploration that  
11 consists only of either or both of the  
12 following —
- 13 (i) mining that is authorised by the relevant  
14 derivative mining right;
- 15 (ii) activities that are solely incidental to  
16 mining that is so authorised.
- 17 (3) Subsection (4) —
- 18 (a) applies to any relevant mining tenement that  
19 has not been granted when the farm-in  
20 transaction is made; but
- 21 (b) cannot be relied upon in a way that would  
22 mean, in effect, that —
- 23 (i) no amount is required to be expended as  
24 referred to in subsection (1)(a); and
- 25 (ii) no exploration is required to be carried  
26 out as referred to in subsection (1)(b).
- 27 (4) Despite subsection (2)(a)(i) and (iii), the exploration on  
28 which an amount is required to be expended as referred  
29 to in subsection (1)(a), or that is required to be carried  
30 out as referred to in subsection (1)(b), need not include  
31 any exploration of the relevant mining tenement.

- 1           (5) In relation to a concessional farm-in transaction, the  
2           *exploration amount* is, as the case requires —
- 3               (a) the amount required to be expended as referred  
4               to in subsection (1)(a); or
- 5               (b) the amount expended by the farmee after the  
6               concessional farm-in transaction is made on the  
7               exploration required to be carried out as  
8               referred to in subsection (1)(b); or
- 9               (c) the amount required to be expended as referred  
10              to in subsection (1)(a) and any additional  
11              amount expended by the farmee after the  
12              concessional farm-in transaction is made on the  
13              exploration required to be carried out as  
14              referred to in subsection (1)(b).
- 15           (6) The Commissioner may, in relation to an agreement,  
16           allow expenditure on administrative costs that would  
17           not otherwise be regarded as expenditure on  
18           exploration for the purposes of this section to be so  
19           regarded, subject to any limits or other conditions  
20           imposed by the Commissioner.

21           **Subdivision 3 — Treatment of farm-in agreements and**  
22           **farm-in transactions for duty purposes**

23           **910. Consideration**

- 24           (1) For the purposes of this Act, the exploration amount  
25           for a concessional farm-in transaction is taken not to be  
26           consideration for the concessional farm-in transaction.
- 27           (2) Section 11(2) does not prevent a concessional farm-in  
28           transaction from being a dutiable transaction.
- 29           (3) Subsections (4) to (6) apply if —
- 30               (a) a farm-in agreement is made; and

- 
- 1 (b) there is, or will be, consideration (the *relevant*  
2 *consideration*) that is, or will be, consideration  
3 for the farm-in agreement (as opposed to being,  
4 for example, consideration for a concessional  
5 farm-in transaction, or for another type of  
6 transaction, contained in the farm-in  
7 agreement).
- 8 (4) The farm-in agreement is taken to contain, in addition  
9 to the 1 or more transactions that it actually contains, a  
10 dutiable transaction that is the acquisition by the  
11 farmee of a derivative mining right.
- 12 (5) The derivative mining right is taken to be acquired by  
13 the farmee on the making of the farm-in agreement.
- 14 (6) The dutiable value of the dutiable transaction is taken  
15 to be the relevant consideration.

16 **91P. General rules relating to charging of duty**

- 17 (1) Nominal duty is chargeable on a concessional farm-in  
18 transaction if there is not, and will not be, any  
19 consideration for the concessional farm-in transaction.
- 20 (2) Subsection (3) applies if —
- 21 (a) a farm-in agreement contains 2 or more  
22 concessional farm-in transactions; and
- 23 (b) apart from subsection (3), nominal duty would  
24 be chargeable on all of the concessional farm-in  
25 transactions contained in the farm-in  
26 agreement.
- 27 (3) Nominal duty is chargeable on all of the concessional  
28 farm-in transactions taken together as if they were a  
29 single dutiable transaction.

- 1           (4) The dutiable value of a dutiable transaction that is a  
2           concessional farm-in transaction is the consideration  
3           for the concessional farm-in transaction.
- 4           (5) Duty is not chargeable on a concessional farm-in  
5           transaction if —
- 6               (a) apart from this subsection, the concessional  
7               farm-in transaction would be chargeable with  
8               nominal duty; and
- 9               (b) the farm-in agreement that contains the  
10              concessional farm-in transaction also contains  
11              1 or more other concessional farm-in  
12              transactions on which duty is chargeable at the  
13              general rate of duty.
- 14          (6) If a farm-in agreement contains 2 or more concessional  
15          farm-in transactions on which duty is chargeable at the  
16          general rate of duty, the amount of duty chargeable on  
17          each of those concessional farm-in transactions must be  
18          determined as follows —
- 19               (a) first, aggregate the dutiable values of the  
20               concessional farm-in transactions;
- 21               (b) second, apply the general rate of duty to the  
22               aggregate dutiable value;
- 23               (c) third, apportion the resulting amount of duty  
24               between the concessional farm-in transactions  
25               in the way determined by the Commissioner.
- 26          (7) If a farm-in agreement contains 2 or more concessional  
27          farm-in transactions and the Commissioner is, at any  
28          time, reassessing the duty chargeable on any of the  
29          concessional farm-in transactions, the Commissioner  
30          must also reassess the duty chargeable on any of the  
31          other concessional farm-in transactions as necessary  
32          for the purpose of applying subsection (3), (5) or (6).

- 1 (8) The limitations as to time in the Taxation  
2 Administration Act section 17 do not apply in respect  
3 of a reassessment under subsection (7).

4 **91Q. Changes to consideration**

- 5 (1) Subsection (3) applies to a concessional farm-in  
6 transaction if, before the concessional farm-in  
7 transaction is completed, the consideration for the  
8 concessional farm-in transaction is increased or  
9 reduced.

10 Example for this subsection:

11 There is a purchase agreement in relation to a concessional  
12 farm-in transaction and the farmee provides the  
13 consideration referred to in section 91M(9)(a).

- 14 (2) For the purposes of subsection (1), a concessional  
15 farm-in transaction is *completed* when either of the  
16 following applies after the farmee has fulfilled the  
17 exploration requirement —
- 18 (a) as contemplated in section 91M(1)(c) or (d), the  
19 farmee —
- 20 (i) acquires an interest in a relevant mining  
21 tenement; or
- 22 (ii) is granted a derivative mining right in  
23 relation to a relevant mining tenement;  
24 or
- 25 (iii) acquires an interest in a relevant  
26 derivative mining right;
- 27 (b) paragraph (a) cannot apply because all of the  
28 farmee's options, as contemplated in  
29 section 91M(1)(c) and (d), have terminated  
30 without being exercised.
- 31 (3) The Commissioner must assess or reassess the duty  
32 chargeable on the concessional farm-in transaction on  
33 the basis of the increased or reduced consideration.

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- 1           (4) However, if it is reduced consideration, the  
2           Commissioner does not have to reassess the duty  
3           unless the taxpayer makes an application for the  
4           reassessment.
- 5           (5) If there is increased consideration after the  
6           concessional farm-in transaction is duty endorsed,  
7           section 31(5) applies with any necessary modifications.
- 8           (6) Duty is chargeable on a reassessment under  
9           subsection (3) in relation to a concessional farm-in  
10          transaction at the same rate and using the same  
11          thresholds that applied when liability for duty on the  
12          concessional farm-in transaction initially arose.
- 13          (7) Subsection (3) does not apply in a case where a  
14          taxpayer may apply for a reassessment because of  
15          subsection (8).
- 16          (8) If any part of the consideration for a concessional  
17          farm-in transaction is dependent on the happening of a  
18          future event, or on a future event not happening,  
19          section 32(1) and (3) apply, with any necessary  
20          modifications, as if references to an agreement for the  
21          transfer of dutiable property were to the concessional  
22          farm-in transaction.
- 23          (9) For the purposes of subsection (8), the Taxation  
24          Administration Act section 17 applies as if —
- 25               (a) despite subsection (1) of that section, a person  
26               is not entitled to apply for a reassessment after  
27               the later of the following —
- 28                       (i) 5 years after the day on which the  
29                       concessional farm-in transaction was  
30                       made;



- 1 (ii) 12 months after the day on which the
- 2 requirements of section 32(1)(b) and (c)
- 3 (as applied under subsection (8)) were
- 4 fulfilled;
- 5 and
- 6 (b) despite subsection (4) of that section, the
- 7 Commissioner may only make a reassessment
- 8 on an application if the application was made
- 9 within that time.

10 **91R. No double duty**

- 11 (1) In this section —
- 12 *consideration*, in relation to a dutiable transaction,
- 13 does not include the exploration amount for the
- 14 concessional farm-in transaction concerned.
- 15 (2) Duty is not chargeable on a dutiable transaction if —
- 16 (a) the dutiable transaction —
- 17 (i) is under a concessional farm-in
- 18 transaction as contemplated in
- 19 section 91M(1)(c) or (d); and
- 20 (ii) without limiting subparagraph (i),
- 21 occurs after the farmee has fulfilled the
- 22 exploration requirement;
- 23 and
- 24 (b) the concessional farm-in transaction is duty
- 25 endorsed.
- 26 (3) Duty is not chargeable on a dutiable transaction (the
- 27 *replacement dutiable transaction*) if —
- 28 (a) the replacement dutiable transaction —
- 29 (i) is in lieu of a dutiable transaction that,
- 30 had it occurred, would have been under
- 31 a concessional farm-in transaction as

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- 1 contemplated in section 91M(1)(c)  
2 or (d); and
- 3 (ii) would be a dutiable transaction under  
4 the concessional farm-in transaction as  
5 contemplated in section 91M(1)(c)  
6 or (d) except only that the replacement  
7 dutiable transaction involves a  
8 replacement mining tenement for a  
9 relevant mining tenement, or a  
10 replacement derivative mining right for  
11 a relevant derivative mining right, that  
12 was not anticipated in the concessional  
13 farm-in transaction; and
- 14 (iii) without limiting subparagraphs (i)  
15 and (ii), occurs after the farmee has  
16 fulfilled the exploration requirement for  
17 the concessional farm-in transaction;
- 18 and
- 19 (b) the concessional farm-in transaction is duty  
20 endorsed.
- 21 (4) Duty is chargeable on a dutiable transaction to which  
22 subsection (2) or (3) would otherwise apply if there is,  
23 or will be, consideration for the dutiable transaction.
- 24 (5) For the purposes of subsection (4), the dutiable value  
25 of the dutiable transaction is the consideration for the  
26 dutiable transaction to the extent that the consideration  
27 was not taken into account when the concessional  
28 farm-in transaction was duty endorsed.
- 29 (6) In subsection (3)(a)(i), the reference to a dutiable  
30 transaction includes a transaction that would be a  
31 dutiable transaction but for the application of  
32 section 91DA to the transaction.

1                   **Subdivision 4 — Variations and other events affecting**  
2                   **farm-in agreements and farm-in transactions**

3           **91S.     Farm-in transaction added to farm-in agreement**

4           (1) This section applies if a farm-in transaction (the  
5           *additional farm-in transaction*) is added to a farm-in  
6           agreement after the farm-in agreement is made.

7           (2) The additional farm-in transaction is a concessional  
8           farm-in transaction only —

9                   (a) if the additional farm-in transaction —

10                           (i) is a concessional farm-in transaction  
11                                   under subsection (3) or (4); and

12                           (ii) if both section 91M(1)(a)(i) and (ii)  
13                                   apply — is a concessional farm-in  
14                                   transaction under both subsections (3)  
15                                   and (4);

16                                   or

17                           (b) in any circumstances prescribed for the  
18                                   purposes of this paragraph.

19           (3) The additional farm-in transaction is a concessional  
20           farm-in transaction if —

21                   (a) section 91M(1)(a)(i) and (c)(i) apply; and

22                   (b) each relevant mining tenement for the  
23                           additional farm-in transaction is also either of  
24                           the following —

25                                   (i) a relevant mining tenement for a  
26   concessional farm-in transaction that  
27   was contained in the farm-in agreement  
28   when the farm-in agreement was made;

- 1                                   (ii) a replacement mining tenement for a  
2                                   relevant mining tenement referred to in  
3                                   subparagraph (i);  
4                                   and  
5                                   (c) when the additional farm-in transaction is  
6                                   added to the farm-in agreement, the farmee is  
7                                   not the holder, or 1 of the holders, of any  
8                                   relevant mining tenement for the additional  
9                                   farm-in transaction.
- 10                               (4) The additional farm-in transaction is a concessional  
11                               farm-in transaction if —  
12                                   (a) section 91M(1)(a)(ii) applies; and  
13                                   (b) each relevant derivative mining right for the  
14                                   additional farm-in transaction is also either of  
15                                   the following —  
16   (i) a relevant derivative mining right for a  
17   concessional farm-in transaction that  
18   was contained in the farm-in agreement  
19   when the farm-in agreement was made;  
20   (ii) a replacement derivative mining right  
21   for a relevant derivative mining right  
22   referred to in subparagraph (i);  
23                                   and  
24                                   (c) the Commissioner is satisfied that, when the  
25                                   additional farm-in transaction is added to the  
26                                   farm-in agreement, the farmee is not the holder,  
27                                   or 1 of the holders, of any relevant derivative  
28                                   mining right for the additional farm-in  
29                                   transaction.
- 30                               (5) If the additional farm-in transaction is a concessional  
31                               farm-in transaction, the Commissioner may, for the  
32                               purpose of applying section 91P(3), (5) or (6), reassess

- 1 the duty chargeable on any other concessional farm-in  
2 transaction contained in the farm-in agreement —
- 3 (a) on the Commissioner’s own initiative; or
  - 4 (b) on the application of the taxpayer.
- 5 (6) For the purposes of a reassessment under  
6 subsection (5) of the duty chargeable on a concessional  
7 farm-in transaction, the concessional farm-in  
8 transaction is to be taken to have been made when the  
9 additional farm-in transaction is added to the farm-in  
10 agreement.
- 11 (7) For the purposes of a reassessment under  
12 subsection (5), the Taxation Administration Act  
13 section 17 applies as if —
- 14 (a) in subsection (1) of that section, the reference  
15 to 5 years after the original assessment was  
16 made were to the later of the following —
    - 17 (i) 5 years after the day on which the  
18 original assessment was made;
    - 19 (ii) 12 months after the day on which the  
20 additional farm-in transaction is added  
21 to the farm-in agreement;
  - 22 and
  - 23 (b) in subsection (4) of that section, references to  
24 5 years after the date of the original assessment  
25 were to the later of the following —
    - 26 (i) 5 years after the day on which the  
27 original assessment was made;
    - 28 (ii) 12 months after the day on which the  
29 additional farm-in transaction is added  
30 to the farm-in agreement.

- 1           **91T.   Variation to farm-in transaction**
- 2           (1) If an agreement that is a concessional farm-in  
3           transaction ceases to meet the requirements for a  
4           farm-in transaction set out in section 91M(1) to (5), the  
5           agreement ceases to be a concessional farm-in  
6           transaction accordingly.
- 7           (2) Subsection (4) applies if an agreement that is a  
8           concessional farm-in transaction is varied so as to add a  
9           relevant mining tenement or relevant derivative mining  
10          right, except that subsection (4) does not apply in any  
11          of the following circumstances —
- 12               (a) subsection (1) applies as a result of the  
13               variation;
- 14               (b) all of the following apply —
- 15                       (i) the relevant mining tenement is a  
16                       prospecting licence or exploration  
17                       licence or the relevant derivative mining  
18                       right relates to a prospecting licence or  
19                       exploration licence;
- 20                       (ii) the relevant mining tenement or relevant  
21                       derivative mining right was granted  
22                       after the concessional farm-in  
23                       transaction was made;
- 24                       (iii) the variation occurs within 3 months  
25                       after the day on which the relevant  
26                       mining tenement or relevant derivative  
27                       mining right was granted or within a  
28                       longer period allowed by the  
29                       Commissioner;
- 30               (c) any circumstances prescribed for the purposes  
31               of this paragraph.
- 32          (3) Subsection (4) also applies if an agreement that is a  
33          concessional farm-in transaction is varied so as to

- 1 increase the interest in a relevant mining tenement, or  
2 in a relevant derivative mining right, that the farmee is  
3 to acquire, or might acquire, as contemplated in  
4 section 91M(1)(c)(i) or (d), except that subsection (4)  
5 does not apply in any of the following  
6 circumstances —
- 7 (a) subsection (1) applies as a result of the  
8 variation;
- 9 (b) as the case requires —
- 10 (i) the farmee is not the holder, or 1 of the  
11 holders, of the relevant mining tenement  
12 when the variation occurs; or
- 13 (ii) the Commissioner is satisfied that, when  
14 the variation occurs, the farmee is not  
15 the holder, or 1 of the holders, of the  
16 relevant derivative mining right;
- 17 (c) any circumstances prescribed for the purposes  
18 of this paragraph.
- 19 (4) The agreement is taken not to be a concessional  
20 farm-in transaction to the extent that the agreement  
21 relates to —
- 22 (a) the relevant mining tenement or relevant  
23 derivative mining right that is added; or
- 24 (b) the increase in the interest in the relevant  
25 mining tenement or relevant derivative mining  
26 right.
- 27 (5) Regulations may prescribe circumstances in which, if  
28 an agreement that is a concessional farm-in transaction  
29 is varied, the agreement —
- 30 (a) ceases to be a concessional farm-in transaction;  
31 or
- 32 (b) is taken not to be a concessional farm-in  
33 transaction to a prescribed extent.

- 1           (6) Subsections (7) to (10) apply if, at any time (the  
2           *relevant time*), under this section or under regulations  
3           made for the purposes of subsection (5) —
- 4                 (a) an agreement ceases to be a concessional  
5                 farm-in transaction; or
- 6                 (b) an agreement is taken not to be a concessional  
7                 farm-in transaction to an extent.
- 8           (7) If, as the agreement stands at the relevant time, the  
9           agreement gives effect to, or evidences, a dutiable  
10           transaction that is not a concessional farm-in  
11           transaction —
- 12                 (a) duty is chargeable on the dutiable transaction as  
13                 if the dutiable transaction had occurred at the  
14                 relevant time; and
- 15                 (b) the other provisions of this Act apply  
16                 accordingly.
- 17           (8) If subsection (7) applies because of subsection (6)(b),  
18           the reference in subsection (7) to the agreement is to  
19           the agreement to the extent that it is taken not to be a  
20           concessional farm-in transaction.
- 21           (9) The ceasing of the agreement to be a concessional  
22           farm-in transaction, or the taking of the agreement not  
23           to be a concessional farm-in transaction to an extent,  
24           does not affect any liability for duty that arose before  
25           the relevant time.
- 26           (10) However, nothing in this section, or in regulations  
27           made for the purposes of subsection (5), prevents  
28           section 107 from applying to the agreement as a  
29           concessional farm-in transaction if the event giving rise  
30           to the application of this section or those regulations  
31           would, apart from this section or those regulations,  
32           cause the agreement to become a cancelled transaction  
33           as defined in that section.



**Subdivision 5 — Other provisions**

**91U. Farm-in transactions relating to prospecting licences**

(1) In this section —

*non-prospecting interest*, in relation to a farm-in transaction, means —

- (a) an interest in a non-prospecting mining tenement in a case where the non-prospecting mining tenement is a replacement mining tenement for a relevant mining tenement; or
- (b) a derivative mining right that relates to a non-prospecting mining tenement in a case where the non-prospecting mining tenement is a replacement mining tenement for a relevant mining tenement; or
- (c) an interest in a derivative mining right in a case where the derivative mining right —
  - (i) is a replacement derivative mining right for a relevant derivative mining right; and
  - (ii) relates to a non-prospecting mining tenement;

*non-prospecting mining tenement* means a mining tenement that is not a prospecting licence;

*prospecting farm-in transaction* means a farm-in transaction contained in a farm-in agreement in a case where —

- (a) if only section 91M(1)(a)(i) applies —
  - (i) each relevant mining tenement is a prospecting licence; and

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- 1 (ii) apart from this section, section 91L(4)  
2 would not prevent the farm-in  
3 transaction from being a concessional  
4 farm-in transaction;
- 5 or
- 6 (b) if only section 91M(1)(a)(ii) applies —
- 7 (i) each relevant derivative mining right  
8 relates to a mining tenement that is a  
9 prospecting licence; and
- 10 (ii) apart from this section, section 91L(4)  
11 would not prevent the farm-in  
12 transaction from being a concessional  
13 farm-in transaction;
- 14 or
- 15 (c) if both section 91M(1)(a)(i) and (ii) apply —
- 16 (i) each relevant mining tenement is a  
17 prospecting licence; and
- 18 (ii) each relevant derivative mining right  
19 relates to a mining tenement that is a  
20 prospecting licence; and
- 21 (iii) apart from this section, section 91L(4)  
22 would not prevent the farm-in  
23 transaction from being a concessional  
24 farm-in transaction.
- 25 (2) Section 91DA does not prevent a concessional farm-in  
26 transaction from being a dutiable transaction.
- 27 (3) Subject to subsections (6) and (8), a prospecting  
28 farm-in transaction is neither a concessional farm-in  
29 transaction nor a dutiable transaction.
- 30 (4) Subsection (6) applies to a farm-in transaction that is a  
31 prospecting farm-in transaction if a dutiable transaction

- 1 involving a non-prospecting interest (the  
2 ***non-prospecting dutiable transaction***) occurs —
- 3 (a) under the farm-in transaction as contemplated  
4 in section 91M(1)(c) or (d); and
- 5 (b) without limiting paragraph (a), after the farmee  
6 has fulfilled the exploration requirement.
- 7 (5) Subsection (6) also applies to a farm-in transaction that  
8 is a prospecting farm-in transaction if —
- 9 (a) a dutiable transaction involving a  
10 non-prospecting interest (the ***non-prospecting***  
11 ***dutiable transaction***) occurs; and
- 12 (b) the non-prospecting dutiable transaction —
- 13 (i) is in lieu of a transaction that, had it  
14 occurred, would have been under the  
15 farm-in transaction as contemplated in  
16 section 91M(1)(c) or (d); and
- 17 (ii) would be a transaction under the farm-in  
18 transaction as contemplated in  
19 section 91M(1)(c) or (d) except only  
20 that the non-prospecting dutiable  
21 transaction involves a replacement  
22 mining tenement for a relevant mining  
23 tenement, or a replacement derivative  
24 mining right for a relevant derivative  
25 mining right, that was not anticipated in  
26 the farm-in transaction; and
- 27 (iii) without limiting subparagraphs (i)  
28 and (ii), occurs after the farmee has  
29 fulfilled the exploration requirement for  
30 the farm-in transaction.

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- 1           (6) The following apply in relation to the farm-in  
2           transaction —
- 3                   (a) the farm-in transaction ceases to be a  
4                   prospecting farm-in transaction when the  
5                   non-prospecting dutiable transaction occurs;
- 6                   (b) the farm-in transaction is, and is taken always  
7                   to have been, a concessional farm-in transaction  
8                   and, accordingly, a dutiable transaction;
- 9                   (c) liability for duty chargeable on the farm-in  
10                  transaction arises when the non-prospecting  
11                  dutiable transaction occurs (despite the item for  
12                  a concessional farm-in transaction in  
13                  Schedule 1).
- 14           (7) Subsection (8) applies if, at any time (the ***relevant***  
15           ***time***), a farm-in transaction that is a prospecting  
16           farm-in transaction is varied so as to add —
- 17                   (a) a relevant mining tenement that is a  
18                   non-prospecting mining tenement; or
- 19                   (b) a relevant derivative mining right that relates to  
20                   a non-prospecting mining tenement.
- 21           (8) The following apply in relation to the farm-in  
22           transaction —
- 23                   (a) the farm-in transaction ceases to be a  
24                   prospecting farm-in transaction at the relevant  
25                   time;
- 26                   (b) the farm-in transaction is, and is taken always  
27                   to have been, a concessional farm-in transaction  
28                   and, accordingly, a dutiable transaction;
- 29                   (c) liability for duty chargeable on the farm-in  
30                  transaction arises at the relevant time (despite  
31                  the item for a concessional farm-in transaction  
32                  in Schedule 1).

- 
- 1           (9) The Commissioner may reassess the duty chargeable  
2           on any dutiable transaction for the purpose of applying  
3           subsection (6) or (8) —  
4           (a) on the Commissioner’s own initiative; or  
5           (b) on the application of the taxpayer.
- 6           (10) The limitations as to time in the Taxation  
7           Administration Act section 17 do not apply in respect  
8           of a reassessment under subsection (9).

9           **91V. Treatment of certain options under farm-in**  
10           **agreements**

- 11           (1) Subsection (2) applies if —
- 12           (a) separately from any concessional farm-in  
13           transaction contained in it, a farm-in agreement  
14           provides, whether conditionally or not, for the  
15           grant to the farmee, after the making of the  
16           farm-in agreement, of an option to acquire an  
17           interest in —
- 18           (i) a mining tenement that is a relevant  
19           mining tenement for a concessional  
20           farm-in transaction contained in the  
21           farm-in agreement; or
- 22           (ii) a derivative mining right that is a  
23           relevant derivative mining right for a  
24           concessional farm-in transaction  
25           contained in the farm-in agreement;
- 26           and
- 27           (b) were the option to be granted, the farmee’s  
28           acquisition of the option on the grant would be  
29           a dutiable transaction under section 11(1)(f).
- 30           (2) The option is taken to have been granted, and therefore  
31           to have been acquired by the farmee, on the making of  
32           the farm-in agreement.

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- 1           (3) Duty is not chargeable on the acquisition of an option  
2           that is taken to have occurred under subsection (2) if,  
3           subsequently, the option will not actually be granted  
4           because —
- 5                 (a) the time for the grant of the option, as specified  
6                 in, or determined in accordance with, the  
7                 farm-in agreement, passes or expires without  
8                 the option being granted; or
- 9                 (b) the farmor and farmee otherwise agree that the  
10                option is not to be granted.
- 11           (4) If subsection (3) applies, the Commissioner must, on  
12           the application of the taxpayer, reassess the liability to  
13           duty on the acquisition of the option.
- 14           (5) For the purposes of subsection (4), the Taxation  
15           Administration Act section 17 applies as if —
- 16                 (a) despite subsection (1) of that section, a person  
17                 is not entitled to apply for a reassessment after  
18                 the later of the following —
- 19                         (i) 5 years after the day on which the  
20                         original assessment was made;
- 21                         (ii) 12 months after the day on which the  
22                         event referred to in subsection (3)(a)  
23                         or (b) occurred;
- 24                 and
- 25                 (b) despite subsection (4) of that section, the  
26                 Commissioner may only make a reassessment  
27                 on an application if the application was made  
28                 within that time.

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**91W. Derivative mining right granted for purposes of exploration requirement for farm-in transaction**

Duty is not chargeable on a dutiable transaction that is the acquisition of a derivative mining right if —

- (a) the person who acquires the derivative mining right is the farmee under a farm-in agreement; and
- (b) the derivative mining right authorises mining only for the purpose of fulfilling the exploration requirement for a concessional farm-in transaction contained in the farm-in agreement; and
- (c) there is not, and will not be, any consideration for the dutiable transaction.

**9. Section 107 amended**

(1) In section 107(2):

(a) in paragraph (c) delete “reason.” and insert:

reason;

(b) after paragraph (c) insert:

(d) a concessional farm-in transaction if the farmee has fulfilled the exploration requirement for the concessional farm-in transaction.

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- 1           (2) In section 107(7):  
2                   (a) delete “property, the *Taxation Administration Act 2003*”  
3                           and insert:  
4  
5                           property or to a concessional farm-in transaction, the  
6                           Taxation Administration Act  
7  
8                   (b) delete paragraph (a)(ii) and insert:  
9  
10                           (ii) more than 12 months after the day on  
11                                   which the agreement for the transfer of  
12                                   dutiabale property, or the concessional  
13                                   farm-in transaction, became a cancelled  
14                                   transaction,  
15

16   **10.       Section 135 deleted**

17           Delete section 135.

18   **11.       Section 205Q amended**

19           In section 205Q(1) delete “other than section 42(15)”.

20   **12.       Section 205S amended**

21           In section 205S(1) delete “8” and insert:

22

23           9

24



1 **13. Schedule 1 amended**

2 In Schedule 1 delete the item for section 11(1)(j) and insert:

3

s. 11(1)(j)	A concessional farm-in transaction	When the concessional farm-in transaction is made	The farmee
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4

5 **14. Schedule 3 Division 11 inserted**

6 At the end of Schedule 3 insert:

7

8 **Division 11 — Provisions for *Duties Amendment (Farm-in***  
9 ***Agreements) Act 2022***

10 **Subdivision 1 — Preliminary**

11 **60. Terms used**

12 (1) In this Division —

13 ***actual section 13 farm-in agreement*** means an agreement  
14 made during the first pre-amendment period that is, apart  
15 from clause 64(2), a farm-in agreement under section 13;

16 ***amending Act*** means the *Duties Amendment (Farm-in*  
17 *Agreements) Act 2022*;

18 ***amendment day*** means the day on which section 14 of the  
19 amending Act comes into operation;

20 ***deemed section 13 farm-in agreement***, subject to  
21 clause 65(7) and (8), means an agreement —

22 (a) that is taken under clause 64(2) to be a farm-in  
23 agreement under section 13; or

24 (b) that is a deemed section 13 farm-in agreement under  
25 clause 65(2)(b);

- 1                    ***first pre-amendment period*** means the period beginning on  
2                    1 July 2008 and ending on the day before amendment day;
- 3                    ***second pre-amendment period*** means the period beginning  
4                    on 28 November 2018 and ending on the day before  
5                    amendment day;
- 6                    ***section 13*** means section 13 as in force from time to time  
7                    before amendment day and as modified under  
8                    Subdivision 5;
- 9                    ***section 13 exploration amount*** —
- 10                    (a)    in relation to an actual section 13 farm-in  
11                    agreement, means the exploration amount for the  
12                    agreement as defined in subsection (2) of  
13                    section 13; and
- 14                    (b)    in relation to a deemed section 13 farm-in  
15                    agreement, means the exploration amount for the  
16                    agreement as defined in section 91N(5), subject to  
17                    section 91N(6);
- 18                    ***section 13 exploration requirement*** —
- 19                    (a)    in relation to an actual section 13 farm-in  
20                    agreement, means the requirement to expend the  
21                    section 13 exploration amount; and
- 22                    (b)    in relation to a deemed section 13 farm-in  
23                    agreement, means the exploration requirement for  
24                    the agreement as defined in section 91N(1) to (4),  
25                    subject to section 91N(6);
- 26                    ***section 13 farm-in agreement*** means an actual section 13  
27                    farm-in agreement or a deemed section 13 farm-in  
28                    agreement;
- 29                    ***section 42(15)*** means section 42(15) as in force from time to  
30                    time before amendment day.
- 31                    (2)    If a term used in this Division is given a meaning in  
32                    section 91K, it has the same meaning in this Division  
33                    (unless otherwise indicated).
- 34                    (3)    If a provision of this Division listed in subclause (4) refers  
35                    to a provision of Chapter 2 Part 5 Division 9, the provision  
36                    of Chapter 2 Part 5 Division 9 applies, for the purposes of

- 1 the provision of this Division, in relation to a deemed  
2 section 13 farm-in agreement —
- 3 (a) as it applies in relation to a farm-in transaction; and  
4 (b) with any necessary modifications.
- 5 (4) The provisions of this Division are as follows —
- 6 (a) paragraph (b) of the definition of *section 13*  
7 *exploration amount* in subclause (1);  
8 (b) paragraph (b) of the definition of *section 13*  
9 *exploration requirement* in subclause (1);  
10 (c) clause 62(a);  
11 (d) clause 69;  
12 (e) clause 71(4)(b);  
13 (f) paragraph (b) of the definition of *replacement*  
14 *mining tenement* in clause 73(1);  
15 (g) paragraph (b) of the definition of *replacement*  
16 *derivative mining right* in clause 74(1).

17 **61. Assessments**

- 18 (1) In this clause —  
19 *made*, in relation to an assessment, includes purportedly  
20 made;  
21 *relevant provision* means clause 64(2), 67(1), 68(1), 69,  
22 70(2), 71(2), 72(1), 73(2) or (5) or 74(3).
- 23 (2) Subclause (3) applies to an assessment of duty chargeable  
24 under this Act that —  
25 (a) is made before amendment day; and  
26 (b) accords with a relevant provision.
- 27 (3) Without limiting the relevant provision, the assessment is,  
28 and is taken always to have been, valid and effective so far  
29 as it accords with the relevant provision.
- 30 (4) Subclause (5) applies in relation to an assessment of duty  
31 chargeable under this Act that —  
32 (a) is made before amendment day; and

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- 1                   (b) does not accord with a relevant provision.
- 2           (5) In order to give effect to the relevant provision, the  
3           Commissioner may make a reassessment of the duty  
4           chargeable —
- 5                   (a) on the Commissioner’s own initiative; or  
6                   (b) on the application of the taxpayer.
- 7           (6) For the purposes of a reassessment under subclause (5), the  
8           Taxation Administration Act section 17 applies as if —
- 9                   (a) in subsection (1) of that section, the reference to  
10                  5 years after the original assessment was made were  
11                  to the later of the following —
- 12                          (i) 5 years after the day on which the original  
13                          assessment was made;
- 14                          (ii) 12 months after amendment day;
- 15                  and
- 16                   (b) in subsection (4) of that section, references to  
17                  5 years after the date of the original assessment  
18                  were to the later of the following —
- 19                          (i) 5 years after the day on which the original  
20                          assessment was made;
- 21                          (ii) 12 months after amendment day.

22           **Subdivision 2 — Provisions relating to Chapter 2 Part 5 Division 9**

23           **62. Application of section 91K(2)**

24           For the purposes of paragraph (b)(iv) of the definition of  
25           *primary farmor* in section 91K(1), section 91K(2) also  
26           applies to a transfer if the transfer is made to the  
27           transferee —

- 28                   (a) under an actual section 13 farm-in agreement as  
29                  contemplated in subsection (1)(c) and (d) of  
30                  section 13 or under a deemed section 13 farm-in  
31                  agreement as contemplated in section 91M(1)(c)(i);  
32                  and

- 1 (b) without limiting paragraph (a), after the transferee  
2 has fulfilled the section 13 exploration requirement.

3 **63. Application of Chapter 2 Part 5 Division 9**

4 An agreement can be a farm-in agreement or farm-in  
5 transaction under Chapter 2 Part 5 Division 9 only if the  
6 agreement is made on or after amendment day.

7 **Subdivision 3 — Deemed section 13 farm-in agreements**

8 **64. Certain agreements taken to be farm-in agreements**  
9 **under section 13**

- 10 (1) Subclause (2) applies to an agreement made during the first  
11 pre-amendment period if —  
12 (a) the agreement is not an actual section 13 farm-in  
13 agreement; and  
14 (b) if Chapter 2 Part 5 Division 9 applied to agreements  
15 made during the first pre-amendment period — the  
16 agreement would, under that Division, be a  
17 concessional farm-in transaction.
- 18 (2) For the purposes of this Act, the agreement is taken to be,  
19 and to have always been, a farm-in agreement under  
20 section 13.
- 21 (3) For the purposes of the application of this Division to  
22 agreements made during the first pre-amendment period,  
23 Chapter 2 Part 5 Division 9 is taken to be modified in  
24 accordance with subclauses (4) to (8).
- 25 (4) In relation to an agreement made before 13 June 2019,  
26 references to a derivative mining right are to a right to  
27 exploit a mining tenement.
- 28 (5) In relation to an agreement made before 28 November 2018,  
29 the definition of *exploration* in section 91K(1) is replaced  
30 with:

31  
32 *exploration* includes development;  
33

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- 1           (6) In section 91N(2) —
- 2                 (a) in paragraph (a)(ii) and (iii), references to
- 3                         exploration of each relevant derivative mining right
- 4                         are to exploration of each mining tenement to which
- 5                         a relevant derivative mining right relates; and
- 6                 (b) paragraph (b) is deleted.
- 7           (7) Subdivision 4 is deleted.
- 8           (8) Section 91U is deleted.
- 9           (9) This clause is subject to clause 65.
- 10         **65. Variations and other events affecting section 13 farm-in**
- 11                 **agreements**
- 12           (1) Subclauses (2) to (6) apply if, on or after amendment day,
- 13                         an agreement (the *additional agreement*) is added to an
- 14                         agreement (the *existing agreement*) that contains 1 or more
- 15                         section 13 farm-in agreements.
- 16           (2) The additional agreement —
- 17                 (a) cannot be a concessional farm-in transaction; but
- 18                 (b) is a deemed section 13 farm-in agreement if, apart
- 19                         from paragraph (a), the additional agreement would
- 20                         be a concessional farm-in transaction —
- 21                                 (i) under section 91S(3) or (4) and, if both
- 22   section 91M(1)(a)(i) and (ii) apply, under
- 23   both section 91S(3) and (4); or
- 24                                 (ii) under any regulations made for the purposes
- 25   of section 91S(2)(b).
- 26           (3) For the purposes of subclause (2)(b), section 91S(3) and (4),
- 27                         and any regulations made for the purposes of
- 28                         section 91S(2)(b), apply, with any necessary modifications,
- 29                         as if —
- 30                                 (a) the existing agreement were a farm-in agreement;
- 31   and

- 1                   (b) any section 13 farm-in agreement contained in the  
2                   existing agreement were a concessional farm-in  
3                   transaction.
- 4                   (4) If the additional agreement is a deemed section 13 farm-in  
5                   agreement under subclause (2)(b), the Commissioner may,  
6                   for the purpose of applying clause 70(5), (6) or (7), reassess  
7                   the duty chargeable on any other section 13 farm-in  
8                   agreement contained in the existing agreement —
- 9                   (a) on the Commissioner’s own initiative; or  
10                  (b) on the application of the taxpayer.
- 11                  (5) For the purposes of a reassessment under subclause (4) of  
12                  the duty chargeable on a section 13 farm-in agreement, the  
13                  section 13 farm-in agreement is to be taken to have been  
14                  made when the additional agreement is added to the existing  
15                  agreement.
- 16                  (6) For the purposes of a reassessment under subclause (4), the  
17                  Taxation Administration Act section 17 applies as if —
- 18                  (a) in subsection (1) of that section, the reference to  
19                  5 years after the original assessment was made were  
20                  to the later of the following —
- 21                          (i) 5 years after the day on which the original  
22                          assessment was made;
- 23                          (ii) 12 months after the day on which the  
24                          additional agreement is added to the  
25                          existing agreement;
- 26                  and
- 27                  (b) in subsection (4) of that section, references to  
28                  5 years after the date of the original assessment  
29                  were to the later of the following —
- 30                          (i) 5 years after the day on which the original  
31                          assessment was made;
- 32                          (ii) 12 months after the day on which the  
33                          additional agreement is added to the  
34                          existing agreement.

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- 1 (7) If, on or after amendment day, an agreement that is a  
2 deemed section 13 farm-in agreement ceases to meet the  
3 requirements for a farm-in transaction set out in  
4 section 91M(1) to (5), the agreement ceases to be a deemed  
5 section 13 farm-in agreement accordingly.
- 6 (8) If, on or after amendment day in a case in which  
7 subclause (7) does not apply, an agreement that is a deemed  
8 section 13 farm-in agreement is varied, section 91T(2)  
9 to (4), and any regulations made for the purposes of  
10 section 91T(2)(c), (3)(c) or (5), apply for the purpose of  
11 determining whether, as a result of the variation —
- 12 (a) the agreement ceases to be a deemed section 13  
13 farm-in agreement; or
- 14 (b) the agreement is taken not to be a deemed  
15 section 13 farm-in agreement to an extent.
- 16 (9) For the purposes of subclause (8), section 91T(2) to (4), and  
17 any regulations made for the purposes of section 91T(2)(c),  
18 (3)(c) or (5), apply, with any necessary modifications, as if  
19 the agreement were a concessional farm-in transaction.
- 20 (10) If an agreement ceases to be, or is taken not to be to an  
21 extent, a deemed section 13 farm-in agreement under  
22 subclause (7) or (8), section 91T(7) to (10) apply, with any  
23 necessary modifications, in relation to the agreement as they  
24 apply in relation to an agreement referred to in  
25 section 91T(6).

26 **Subdivision 4 — Ongoing application of Act in relation to**  
27 **section 13 farm-in agreements**

28 **66. Act to apply in relation to section 13 farm-in agreements**  
29 **as if sections 4 to 13 of amending Act not enacted**

30 On and after amendment day, this Act applies to section 13  
31 farm-in agreements, and dutiable transactions under  
32 section 13 farm-in agreements, as if sections 4 to 13 of the  
33 amending Act had not been enacted (subject to the other  
34 provisions of this Division where relevant).



**Subdivision 5 — Modifications of section 13**

**67. Restriction on activities regarded as exploration or development for purposes of section 13(2)**

- (1) For the purposes of this Act, subsection (2) of section 13 is taken to have applied during the second pre-amendment period, and applies on and after amendment day under clause 66, subject to subclause (2).
- (2) In subsection (2) of section 13, in relation to an agreement made during the second pre-amendment period, the reference to exploration or development only includes development to the extent that it is carried out solely —
  - (a) for the purpose of facilitating exploration; or
  - (b) otherwise incidentally to exploration.

**68. Commissioner may allow expenditure on administrative costs to be regarded as expenditure on exploration or development for purposes of section 13(2)**

- (1) For the purposes of this Act, subsection (2) of section 13 is taken to have applied during the first pre-amendment period, and applies on and after amendment day under clause 66, subject to subclause (2).
- (2) The Commissioner may, in relation to an agreement made during the first pre-amendment period, allow expenditure on administrative costs that would not otherwise be regarded as expenditure on exploration or development for the purposes of subsection (2) of section 13 to be so regarded, subject to any limits or other conditions imposed by the Commissioner.

**Subdivision 6 — Duty chargeable in relation to section 13 farm-in agreements**

**69. Application of Schedule 1 to deemed section 13 farm-in agreements**

For the purposes of this Act, in relation to a deemed section 13 farm-in agreement, Schedule 1 is taken to have

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1 applied during the first pre-amendment period, and applies  
2 on and after amendment day under clause 66, as if, in the  
3 item for section 11(1)(j) column 4, the reference to the  
4 person referred to in section 13(1)(b) were to the farmee as  
5 defined in section 91L(1)(b).

6 **70. Section 13 farm-in agreements: modified rules relating**  
7 **to charging of duty**

- 8 (1) In this clause —  
9 *section 135* means section 135 as in force from time to time  
10 before amendment day.
- 11 (2) For the purposes of this Act, in relation to section 13 farm-in  
12 agreements, section 135 is taken to have applied during the  
13 first pre-amendment period, and applies on and after  
14 amendment day under clause 66, subject to subclauses (3)  
15 to (9).
- 16 (3) For the purposes of subsection (3) of section 135, the  
17 exploration amount is the section 13 exploration amount.
- 18 (4) Subclause (5) applies if —  
19 (a) an agreement contains 2 or more section 13 farm-in  
20 agreements that are dutiable transactions; and  
21 (b) apart from subclause (5), nominal duty would be  
22 chargeable on all of the section 13 farm-in  
23 agreements contained in the agreement that are  
24 dutiable transactions.
- 25 (5) Nominal duty is chargeable on all of the section 13 farm-in  
26 agreements taken together as if they were a single dutiable  
27 transaction.
- 28 (6) Duty is not chargeable on a section 13 farm-in agreement  
29 if —  
30 (a) apart from this subclause, the section 13 farm-in  
31 agreement would be chargeable with nominal duty;  
32 and  
33 (b) the section 13 farm-in agreement is contained in an  
34 agreement that also contains 1 or more other

- 1 section 13 farm-in agreements on which duty is  
2 chargeable at the general rate of duty.
- 3 (7) If an agreement contains 2 or more section 13 farm-in  
4 agreements on which duty is chargeable at the general rate  
5 of duty, the amount of duty chargeable on each of those  
6 section 13 farm-in agreements must be determined as  
7 follows —
- 8 (a) first, aggregate the dutiable values of the section 13  
9 farm-in agreements;
- 10 (b) second, apply the general rate of duty to the  
11 aggregate dutiable value;
- 12 (c) third, apportion the resulting amount of duty  
13 between the section 13 farm-in agreements in the  
14 way determined by the Commissioner.
- 15 (8) If an agreement contains 2 or more section 13 farm-in  
16 agreements and the Commissioner is, at any time,  
17 reassessing the duty chargeable on any of the section 13  
18 farm-in agreements, the Commissioner must also reassess  
19 the duty chargeable on any of the other section 13 farm-in  
20 agreements as necessary for the purpose of applying  
21 subclause (5), (6) or (7).
- 22 (9) The limitations as to time in the Taxation Administration  
23 Act section 17 do not apply in respect of a reassessment  
24 under subclause (8).

25 **71. Changes to consideration**

- 26 (1) In this clause —
- 27 *consideration* does not include the section 13 exploration  
28 amount;
- 29 *derivative mining right*, in relation to a section 13 farm-in  
30 agreement made before 13 June 2019, means a right to  
31 exploit a mining tenement.
- 32 (2) In relation to section 13 farm-in agreements that are made  
33 during the second pre-amendment period or that are deemed  
34 section 13 farm-in agreements under clause 65(2)(b), this  
35 Act is taken to have applied during the second

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- 1 pre-amendment period, and applies on and after amendment  
2 day under clause 66, subject to subclauses (3) to (11).
- 3 (3) Subclause (5) applies to a section 13 farm-in agreement if,  
4 before the section 13 farm-in agreement is completed, the  
5 consideration for the section 13 farm-in agreement is  
6 increased or reduced.
- 7 (4) For the purposes of subclause (3), a section 13 farm-in  
8 agreement is *completed* when —
- 9 (a) in the case of an actual section 13 farm-in  
10 agreement, after the section 13 exploration  
11 requirement is fulfilled, the mining tenement, or the  
12 derivative mining right, becomes held as referred to  
13 in subsection (1)(d) of section 13; or
- 14 (b) in the case of a deemed section 13 farm-in  
15 agreement, the agreement is completed in  
16 accordance with section 91Q(2).
- 17 (5) The Commissioner must assess or reassess the duty  
18 chargeable on the section 13 farm-in agreement on the basis  
19 of the increased or reduced consideration.
- 20 (6) However, if it is reduced consideration, the Commissioner  
21 does not have to reassess the duty unless the taxpayer makes  
22 an application for the reassessment.
- 23 (7) If there is increased consideration after the section 13  
24 farm-in agreement is duty endorsed, section 31(5) applies —
- 25 (a) as if the reference to 2 months after the day on  
26 which consideration under the transaction is  
27 increased were, if later, to 2 months after  
28 amendment day; and
- 29 (b) with any other necessary modifications.
- 30 (8) Duty is chargeable on a reassessment under subclause (5) in  
31 relation to a section 13 farm-in agreement at the same rate  
32 and using the same thresholds that applied when liability for  
33 duty on the section 13 farm-in agreement initially arose.

- 1           (9) Subclause (5) does not apply in a case where a taxpayer may  
2           apply for a reassessment because of subclause (10).
- 3           (10) If any part of the consideration for a section 13 farm-in  
4           agreement is dependent on the happening of a future event,  
5           or on a future event not happening, section 32(1) and (3)  
6           apply, with any necessary modifications, as if references to  
7           an agreement for the transfer of dutiable property were to  
8           the section 13 farm-in agreement.
- 9           (11) For the purposes of subclause (10), the Taxation  
10          Administration Act section 17 applies as if —
- 11               (a) despite subsection (1) of that section, a person is not  
12               entitled to apply for a reassessment after the latest  
13               of the following —
- 14                       (i) 5 years after the day on which the  
15                       section 13 farm-in agreement was made;
- 16                       (ii) 12 months after the day on which the  
17                       requirements of section 32(1)(b) and (c) (as  
18                       applied under subclause (10)) were  
19                       fulfilled;
- 20                       (iii) 12 months after amendment day;
- 21               and
- 22               (b) despite subsection (4) of that section, the  
23               Commissioner may only make a reassessment on an  
24               application if the application was made within that  
25               time.

26           **72. No double duty: exploration amount**

- 27           (1) This Act is taken to have applied during the first  
28           pre-amendment period, and applies on and after amendment  
29           day under clause 66, subject to subclause (2).
- 30           (2) In paragraph (b) of section 42(15), in relation to a section 13  
31           farm-in agreement, the reference to the exploration amount  
32           under the agreement having been expended is a reference to  
33           the section 13 exploration requirement for the agreement  
34           having been fulfilled.

- 1           **73.       No double duty: mining tenements**
- 2           (1)       In this clause —
- 3                   ***replacement mining tenement*** —
- 4                   (a)       in relation to an actual section 13 farm-in
- 5                               agreement, means a mining tenement —
- 6                               (i)       that is granted, after the making of the
- 7                                       actual section 13 farm-in agreement, to
- 8                                       replace (wholly or partly) the mining
- 9                                       tenement referred to in subsection (1)(a) of
- 10                                      section 13 or an earlier replacement mining
- 11                                      tenement; and
- 12                               (ii)       that relates only to the land, or to a part of
- 13                                      the land, the subject of the mining tenement
- 14                                      that is replaced; and
- 15                               (iii)      of which the owner referred to in
- 16                                      subsection (1)(a) of section 13 is the holder
- 17                                      or 1 of the holders;
- 18                               and
- 19                   (b)       in relation to a deemed section 13 farm-in
- 20                               agreement, has the meaning given in
- 21                               section 91M(6).
- 22           (2)       This Act is taken to have applied during the first
- 23                   pre-amendment period, and applies on and after amendment
- 24                   day under clause 66, subject to subclauses (3) and (4).
- 25           (3)       Duty is not chargeable on a transfer of, or an agreement for
- 26                   the transfer of, an interest in a mining tenement (the ***affected***
- 27                   ***mining tenement***) if —
- 28                   (a)       the affected mining tenement is a replacement
- 29                               mining tenement in relation to a section 13 farm-in
- 30                               agreement; and
- 31                   (b)       the transfer or agreement —
- 32                               (i)       is in lieu of a transfer of, or an agreement
- 33                                      for the transfer of, an interest in a mining
- 34                                      tenement that, had it occurred, would have

- 1                                   been under the section 13 farm-in  
2                                   agreement; and
- 3                                   (ii) would be a transfer or agreement under the  
4                                   section 13 farm-in agreement except only  
5                                   that the affected mining tenement is a  
6                                   replacement mining tenement or is a  
7                                   replacement mining tenement that was not  
8                                   anticipated in the section 13 farm-in  
9                                   agreement;
- 10                                  and
- 11                                  (c) the section 13 farm-in agreement is duty endorsed;  
12                                  and
- 13                                  (d) the section 13 exploration requirement for the  
14                                  section 13 farm-in agreement has been fulfilled.
- 15                   (4) The requirement of paragraph (a) of section 42(15), or of  
16                   subclause (3)(c), does not have to be met if the section 13  
17                   farm-in agreement concerned is not duty endorsed because  
18                   of the application of section 91DA to the section 13 farm-in  
19                   agreement.
- 20                   (5) This Act is taken to have applied during the second  
21                   pre-amendment period, and applies on and after amendment  
22                   day under clause 66, subject to subclauses (6) to (8).
- 23                   (6) Duty is chargeable on a transfer of, or an agreement for the  
24                   transfer of, an interest in a mining tenement to which  
25                   section 42(15) or subclause (3) would otherwise apply if —
- 26                                  (a) there is, or will be, consideration for the transfer or  
27                                  agreement; and
- 28                                  (b) the section 13 farm-in agreement concerned is made  
29                                  during the second pre-amendment period or is a  
30                                  deemed section 13 farm-in agreement under  
31                                  clause 65(2)(b).

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- 1           (7) For the purposes of subclause (6), the dutiable value of the  
2 transfer or agreement is —
- 3               (a) if the section 13 farm-in agreement concerned is not  
4 duty endorsed as referred to in subclause (4) — the  
5 consideration for the transfer or agreement; or
- 6               (b) otherwise — that consideration to the extent that the  
7 consideration was not taken into account when the  
8 section 13 farm-in agreement concerned was duty  
9 endorsed.
- 10           (8) For the purposes of subclauses (6) and (7), the section 13  
11 exploration amount for the section 13 farm-in agreement  
12 concerned is taken not to be consideration for the transfer or  
13 agreement.

14           **74. No double duty: derivative mining rights**

- 15           (1) In this clause —
- 16               *derivative mining right*, in relation to a section 13 farm-in  
17 agreement made before 13 June 2019, means a right to  
18 exploit a mining tenement;
- 19               *replacement derivative mining right* —
- 20               (a) in relation to an actual section 13 farm-in  
21 agreement, means a derivative mining right —
- 22                   (i) that is granted, after the making of the  
23 section 13 farm-in agreement, to replace  
24 (wholly or partly) the derivative mining  
25 right referred to in subsection (1)(a) of  
26 section 13 or an earlier replacement  
27 derivative mining right; and
- 28                   (ii) that relates only to the land, or to a part of  
29 the land, the subject of the derivative  
30 mining right that is replaced; and
- 31                   (iii) subject to subclause (2), that does not  
32 authorise any mining beyond the mining  
33 authorised by the derivative mining right  
34 that is replaced; and



- 1 (iv) of which the person referred to in  
2 subsection (1)(a) of section 13 is the holder  
3 or 1 of the holders;
- 4 and
- 5 (b) in relation to a deemed section 13 farm-in  
6 agreement, has the meaning given in  
7 section 91M(7) and (8);
- 8 **replacement mining tenement** has the meaning given in  
9 clause 73(1).
- 10 (2) The requirement in paragraph (a)(iii) of the definition of  
11 **replacement derivative mining right** in subclause (1) does  
12 not have to be met if —
- 13 (a) the derivative mining right is granted in relation to a  
14 mining tenement (the **new mining tenement**) that  
15 was granted to replace (wholly or partly) another  
16 mining tenement (the **previous mining tenement**);  
17 and
- 18 (b) the new mining tenement authorises mining beyond  
19 the mining authorised by the previous mining  
20 tenement; and
- 21 (c) the derivative mining right only authorises mining  
22 for minerals for which mining is authorised by the  
23 derivative mining right that is replaced.
- 24 (3) This Act is taken to have applied during the period  
25 beginning on 13 June 2019 and ending on the day before  
26 amendment day, and applies on and after amendment day  
27 under clause 66, subject to subclauses (4) to (11).
- 28 (4) Duty is not chargeable on a dutiable transaction under a  
29 section 13 farm-in agreement if —
- 30 (a) the dutiable transaction involves a derivative mining  
31 right; and
- 32 (b) the section 13 farm-in agreement is duty endorsed;  
33 and
- 34 (c) the section 13 exploration requirement for the  
35 section 13 farm-in agreement has been fulfilled.

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- 1           (5) Duty is not chargeable on a dutiable transaction involving a  
2           derivative mining right if —
- 3                   (a) the derivative mining right relates to a mining  
4                   tenement (the *affected mining tenement*) that is a  
5                   replacement mining tenement in relation to a  
6                   section 13 farm-in agreement; and
- 7                   (b) the dutiable transaction —
- 8                           (i) is in lieu of a dutiable transaction involving  
9                           a derivative mining right that, had it  
10                           occurred, would have been under the  
11                           section 13 farm-in agreement; and
- 12                           (ii) would be a dutiable transaction under the  
13                           section 13 farm-in agreement except only  
14                           that the affected mining tenement is a  
15                           replacement mining tenement or is a  
16                           replacement mining tenement that was not  
17                           anticipated in the section 13 farm-in  
18                           agreement;
- 19                           and
- 20                   (c) the section 13 farm-in agreement is duty endorsed;  
21                   and
- 22                   (d) the section 13 exploration requirement for the  
23                   section 13 farm-in agreement has been fulfilled.
- 24           (6) Duty is not chargeable on a dutiable transaction involving a  
25           derivative mining right (the *affected derivative mining*  
26           *right*) if —
- 27                   (a) the affected derivative mining right is a replacement  
28                   derivative mining right in relation to a section 13  
29                   farm-in agreement; and
- 30                   (b) the dutiable transaction —
- 31                           (i) is in lieu of a dutiable transaction involving  
32                           a derivative mining right that, had it  
33                           occurred, would have been under the  
34                           section 13 farm-in agreement; and
- 35                           (ii) would be a dutiable transaction under the  
36                           section 13 farm-in agreement except only

- 1   that the affected derivative mining right is a  
2   replacement derivative mining right or a  
3   replacement derivative mining right that  
4   was not anticipated in the section 13  
5   farm-in agreement;
- 6   and
- 7   (c) the section 13 farm-in agreement is duty endorsed;  
8   and
- 9   (d) the section 13 exploration requirement for the  
10   section 13 farm-in agreement has been fulfilled.
- 11   (7) In subclauses (5)(b)(i) and (6)(b)(i), references to a dutiable  
12   transaction include a transaction that would be a dutiable  
13   transaction but for the application of section 91DA to the  
14   transaction.
- 15   (8) The requirement of subclause (4)(b), (5)(c) or (6)(c) does  
16   not have to be met if the section 13 farm-in agreement is not  
17   duty endorsed because of the application of section 91DA to  
18   the section 13 farm-in agreement.
- 19   (9) Duty is chargeable on a dutiable transaction to which  
20   subclause (4), (5) or (6) would otherwise apply if —
- 21   (a) there is, or will be, consideration for the dutiable  
22   transaction; and
- 23   (b) the section 13 farm-in agreement concerned is made  
24   during the second pre-amendment period or is a  
25   deemed section 13 farm-in agreement under  
26   clause 65(2)(b).
- 27   (10) For the purposes of subclause (9), the dutiable value of the  
28   dutiable transaction is —
- 29   (a) if the section 13 farm-in agreement concerned is not  
30   duty endorsed as referred to in subclause (8) — the  
31   consideration for the dutiable transaction; or
- 32   (b) otherwise — that consideration to the extent that the  
33   consideration was not taken into account when the  
34   section 13 farm-in agreement concerned was duty  
35   endorsed.

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- 1           (11) For the purposes of subclauses (9) and (10), the section 13  
2           exploration amount for the section 13 farm-in agreement  
3           concerned is taken not to be consideration for the dutiable  
4           transaction.  
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