Uranium Royalty (Northern Territory) Bill 2008

No.  , 2008

(Resources and Energy)

A Bill for an Act to impose a royalty on uranium, and certain other designated substances, recovered in the Northern Territory, and for other purposes
Contents

Part 1—Preliminary

1. Short title ................................................................. 1
2. Commencement ......................................................... 2
3. Simplified outline .................................................... 2
4. Definitions .............................................................. 3
5. Crown to be bound................................................... 4

Part 2—Application of Northern Territory royalty laws in relation to designated substances

6. Application of Northern Territory royalty laws in relation to designated substances ........................................ 5
7. Arrangements with the Northern Territory .......................... 7
8. Tax laws not applied .................................................... 8
9. Appropriation law not applied ....................................... 8
10. Applied laws not to confer Commonwealth judicial power ....... 8
11. Applied laws not to contravene constitutional restrictions on conferral of powers on courts .................................. 9

Part 3—Miscellaneous

12. Jurisdiction of Northern Territory courts .......................... 10
13. Procedure in proceedings under applied law ....................... 10
14. Grant of pardon, remission etc........................................ 10
15. Certain Commonwealth laws do not apply in relation to applied laws ......................................................... 11
16. Application of Commonwealth laws in relation to applied laws ........................................................................ 11
17. Payments by the Commonwealth to the Northern Territory .... 11
18. Appropriation .................................................................. 12
19. Regulations ..................................................................... 12
A Bill for an Act to impose a royalty on uranium, and certain other designated substances, recovered in the Northern Territory, and for other purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the Uranium Royalty (Northern Territory) Act 2008.
Part 1 Preliminary

Section 2

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Sections 3 to 19</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act imposes a royalty on uranium, and certain other designated substances, recovered in the Northern Territory.
- This Act does so by applying the Mineral Royalty Act of the Northern Territory as a law of the Commonwealth.
4 Definitions

In this Act:

*applied law* means the provisions of a Northern Territory law that apply, in accordance with this Act, as laws of the Commonwealth.

*authority of the Northern Territory* means any of the following:

(a) the Administrator, a Minister or a member of the Executive Council of the Northern Territory;

(b) a court of the Northern Territory;

(c) a person who holds office as a member of a court of the Northern Territory;

(d) a body created by or under a law of the Northern Territory;

(e) an officer or employee of the Northern Territory;

(f) an officer or employee of a body referred to in paragraph (d).

*corresponding applied law*, in relation to a Northern Territory royalty law, means an applied law that corresponds to the Northern Territory royalty law.

*corresponding Northern Territory royalty law*, in relation to an applied law, means the Northern Territory royalty law to which the applied law corresponds.

*designated substance* means a prescribed substance (within the meaning of the *Atomic Energy Act 1953*) that is:

(a) naturally occurring; and

(b) obtained or obtainable from land in the Northern Territory by mining, whether carried out under or on the surface of the land; and

(c) the property of the Commonwealth;

but does not include a substance obtained or obtainable from the Ranger Project Area.

Note: Section 35 of the *Atomic Energy Act 1953* deals with the Commonwealth’s property in prescribed substances.

*modifications* includes additions, omissions and substitutions.

*Northern Territory law* means:
Part 1 Preliminary

Section 5

(a) a law in force in the Northern Territory, whether written or
unwritten; or
(b) an instrument made or having effect under a law referred to
in paragraph (a);
but does not include a law of the Commonwealth, whether written
or unwritten, or an instrument made or having effect under such a
law.

Northern Territory royalty law means the following, as in force
from time to time:
(a) the Mineral Royalty Act of the Northern Territory;
(b) any other Northern Territory law, to the extent that it is
relevant to the operation of the law covered by paragraph (a).

proceedings means any proceedings, whether civil or criminal and
whether original or appellate.

Ranger Project Area means the land described in Schedule 2 to the
Aboriginal Land Rights (Northern Territory) Act 1976 as in force
immediately before the commencement of this section.

responsible Northern Territory Minister means the Minister of the
Northern Territory responsible for the Mineral Royalty Act of the
Northern Territory.

5 Crown to be bound

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to be prosecuted for an
offence.
Part 2—Application of Northern Territory royalty laws in relation to designated substances

6 Application of Northern Territory royalty laws in relation to designated substances

(1) In addition to its application apart from this section, each Northern Territory royalty law also applies as a law of the Commonwealth, subject to:

(a) such modifications (if any) as are specified in the regulations; and

(b) the following modifications:

<table>
<thead>
<tr>
<th>Item</th>
<th>Provision(s) of the Mineral Royalty Act of the Northern Territory</th>
<th>Modification(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Subsection 3(8)</td>
<td>Omit the subsection.</td>
</tr>
<tr>
<td>2</td>
<td>Section 4 (definition of authorized person)</td>
<td>After “section 13”, insert “of the corresponding Northern Territory Royalty Act”.</td>
</tr>
<tr>
<td>3</td>
<td>Section 4</td>
<td>Insert: corresponding Northern Territory Royalty Act means the Mineral Royalty Act of the Northern Territory, as it applies as a law of the Northern Territory.</td>
</tr>
<tr>
<td>4</td>
<td>Section 4</td>
<td>Insert: designated substance has the same meaning as in the Uranium Royalty (Northern Territory) Act 2008 of the Commonwealth.</td>
</tr>
<tr>
<td>5</td>
<td>Section 4 (definition of mineral)</td>
<td>Omit the definition, substitute: mineral means a designated substance.</td>
</tr>
<tr>
<td>6</td>
<td>Section 4 (definition of Secretary)</td>
<td>At the end of the definition, add “of the corresponding Northern Territory Royalty Act”.</td>
</tr>
</tbody>
</table>
### Part 2  Application of Northern Territory royalty laws in relation to designated substances

#### Section 6

<table>
<thead>
<tr>
<th>Item</th>
<th>Provision(s) of the Mineral Royalty Act of the Northern Territory</th>
<th>Modification(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Subsection 9(1)</td>
<td>Omit the subsection, substitute:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1) There is payable under this Act to the Crown in right of the Northern Territory, on behalf of the Commonwealth, a royalty in respect of all designated substances obtained from a production unit in a royalty year.</td>
</tr>
<tr>
<td>8</td>
<td>Section 40</td>
<td>At the end of the section, add:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(4) An amount payable under subsection (1) or (2) is payable to the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>9</td>
<td>Section 42</td>
<td>At the end of the section, add:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) An amount payable under this section is payable to the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>10</td>
<td>Section 42A</td>
<td>At the end of the section, add:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(4) An amount payable under this section is payable to the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>11</td>
<td>Section 42B</td>
<td>At the end of the section, add:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) An amount payable under this section is payable to the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>12</td>
<td>Section 43</td>
<td>At the end of the section, add:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(5) An amount payable under this section is payable to the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>13</td>
<td>Subsection 45(2)</td>
<td>Omit the subsection, substitute:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) An amount retained under paragraph (1)(a) is to be retained by the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) An amount payable under paragraph (1)(b) is payable by the Secretary on behalf of the Commonwealth.</td>
</tr>
<tr>
<td>14</td>
<td>Subsections 49AA(1) and (2)</td>
<td>Omit the subsections.</td>
</tr>
<tr>
<td>15</td>
<td>Subsection 50(1)</td>
<td>After “for the purposes of this Act”, insert “, the corresponding Northern Territory Royalty Act”.</td>
</tr>
</tbody>
</table>
Application of Northern Territory royalty laws in relation to designated substances

Part 2

Section 7

<table>
<thead>
<tr>
<th>Item</th>
<th>Provision(s) of the Mineral Royalty Act of the Northern Territory</th>
<th>Modification(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Paragraph 50(2)(a)</td>
<td>After “under this Act”, insert “or the corresponding Northern Territory Royalty Act”.</td>
</tr>
<tr>
<td>17</td>
<td>Paragraph 50(2)(d)</td>
<td>After “the efficient administration of this Act”, insert “or the corresponding Northern Territory Royalty Act”.</td>
</tr>
<tr>
<td>18</td>
<td>Subsection 50(2)</td>
<td>At the end of the subsection, add: ; or (f) a Territory employee performing a function under this Act to the Commonwealth Minister administering the Uranium Royalty (Northern Territory) Act 2008 of the Commonwealth; or (g) a Territory employee performing a function under this Act to an APS employee (within the meaning of the Public Service Act 1999 of the Commonwealth) in the Department administered by the Commonwealth Minister administering the Uranium Royalty (Northern Territory) Act 2008 of the Commonwealth.</td>
</tr>
<tr>
<td>19</td>
<td>Paragraphs 50(4A)(d) and (e)</td>
<td>After “of this Act”, insert “or the corresponding Northern Territory Royalty Act”.</td>
</tr>
</tbody>
</table>

(2) Subsection (1) has effect subject to this Act.

(3) This section does not have effect unless an arrangement is in operation under section 7.

7 Arrangements with the Northern Territory

(1) The Minister may make an arrangement with the responsible Northern Territory Minister in relation to the exercise or performance of a power, duty or function (other than a power, duty or function involving the exercise of judicial power) by an authority of the Northern Territory under the applied laws.
Part 2 Application of Northern Territory royalty laws in relation to designated substances

Section 8

(2) If such an arrangement is in force, the power, duty or function may or must, as the case may be, be exercised or performed accordingly.

(3) The Minister may arrange with the responsible Northern Territory Minister for the variation or revocation of an arrangement made under this section.

(4) An arrangement, variation or revocation under this section must be made by instrument in writing.

(5) A copy of an instrument under subsection (4) must be published in the Gazette.

(6) An arrangement under this section may make provision for the receipt, custody or payment of public money (within the meaning of the Financial Management and Accountability Act 1997) by an outsider (within the meaning of section 12 of that Act) and, if the arrangement does so:

(a) the arrangement is authorised for the purposes of section 12 of that Act; and

(b) a payment of public money authorised by an applied law or this Act is taken, for the purposes of paragraph 12(2)(c) of that Act, to be authorised by the arrangement.

8 Tax laws not applied

Section 6 does not operate so as to impose a tax.

9 Appropriation law not applied

Section 6 does not operate so as to appropriate any public money of the Northern Territory.

10 Applied laws not to confer Commonwealth judicial power

Section 6 does not operate so as to confer the judicial power of the Commonwealth on a court, tribunal, authority or officer of the Northern Territory.

Note: See also section 12.
Section 11

11 Applied laws not to contravene constitutional restrictions on conferral of powers on courts

Section 6 does not operate so as to confer on a court of the Northern Territory a power that cannot, under the Constitution, be conferred by the Parliament on such a court.
Part 3 — Miscellaneous

12 Jurisdiction of Northern Territory courts

(1) Jurisdiction is conferred on the courts that have jurisdiction in the Northern Territory in all matters arising out of the applied laws.

(2) Jurisdiction is conferred under subsection (1) within the limits of the jurisdiction of the court (whether those limits are limits as to subject matter or otherwise).

13 Procedure in proceedings under applied law

(1) Subject to this Act:
   
   (a) any proceedings under an applied law (core proceedings)
       must be instituted and conducted in the same manner as though they were proceedings under the corresponding Northern Territory royalty law; and

   (b) any other proceedings in relation to the core proceedings (including declining to proceed further in a prosecution) must also be taken as though the core proceedings were proceedings under the corresponding Northern Territory royalty law.

(2) The trial on indictment of an offence against an applied law must be by jury.

14 Grant of pardon, remission etc.

Scope

(1) This section applies if a person is convicted under an applied law.

Powers and functions

(2) An authority of the Northern Territory may exercise or perform the same powers and functions in relation to the convicted person as the authority would have been empowered to exercise or perform under the laws of the Northern Territory if the offence had been an offence against a law of the Northern Territory.
Section 15

(3) This section does not affect a power or function of the Governor-General.

15 Certain Commonwealth laws do not apply in relation to applied laws

(1) Subject to this Act, the following Commonwealth laws:
   (a) the Acts Interpretation Act 1901;
   (b) Chapter 2 of the Criminal Code;
   (c) a prescribed Commonwealth law;
   do not apply in relation to:
   (d) an applied law; or
   (e) anything done under an applied law.

(2) Subsection (1) has effect subject to any modifications prescribed by the regulations.

16 Application of Commonwealth laws in relation to applied laws

(1) To the extent that:
   (a) a Commonwealth law applies to a Northern Territory royalty law, or to things done under a Northern Territory royalty law;
   and
   (b) there is a corresponding applied law;
   the Commonwealth law also applies to the applied law and to things done under the corresponding applied law.

(2) If:
   (a) a law of the Commonwealth (other than an applied law) contains a reference to a Northern Territory royalty law; and
   (b) an applied law corresponds to the Northern Territory royalty law;
   then the reference is taken to include a reference to the applied law.

17 Payments by the Commonwealth to the Northern Territory

(1) If an amount (the received amount) is received by the Commonwealth under an applied law, the Commonwealth must
Section 18

pay to the Northern Territory an amount equal to the received amount.

Recoupment of refunded amounts

(2) The payment of the amount to the Northern Territory is subject to the condition that, if the whole or a part of the received amount is refunded under the applied law, the Northern Territory will pay to the Commonwealth an amount equal to the amount refunded.

18 Appropriation

Amounts payable by the Commonwealth under the applied law or this Act are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

19 Regulations

The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.