

Chapter 2

The bill

Outline of the bill

2.1 The Uranium Royalty (Northern Territory) Bill 2008 seeks to apply the existing profit-based mineral royalty regime under the *Mineral Royalty Act 1982* (NT) to new projects containing designated substances on Aboriginal land, as defined by the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA), and non-Aboriginal land.

2.2 The definition of designated substances includes uranium and other prescribed substances as defined by the *Atomic Energy Act 1953*, for which the Commonwealth retains ownership in the Northern Territory.

2.3 According to the Explanatory Memorandum, if passed the bill would exclude the application of certain Commonwealth laws, make certain modifications to the application of the *Mineral Royalty Act 1982* (NT) as a Commonwealth law and apply other relevant Northern Territory laws in order to:

- (a) keep the administration of the bill as consistent as possible with the administration of the *Mineral Royalty Act 1982* (NT);
- (b) restrict the amount of additional burden on Northern Territory officials to administer the two pieces of legislation; and
- (c) limit any increase in regulatory burden on industry in complying with two sets of regulation for separate projects and/or for polymetallic projects containing designated substances.

2.4 The bill provides for the Northern Territory to administer the royalty regime on behalf of the Commonwealth, to retain the royalties collected, and to repay any overpayment of royalties on behalf of the Commonwealth.

2.5 Where mining occurs on Aboriginal land, the Commonwealth is obliged, under section 63(1) of the ALRA, to make payments of amounts equivalent to royalties from the Consolidated Revenue Fund to the Aboriginals Benefit Account (ABA). This payment would be in addition to the payment to the Northern Territory of amounts equivalent to the royalties collected under the bill.

2.6 The bill requires the Commonwealth Minister for Resources and Energy and the Northern Territory Treasurer to agree on administrative arrangements prior to enabling the operation of the bill. The administrative arrangements would be made publicly available via the Gazette.

2.7 The bill recognises and permits the use of the Northern Territory judicial system and other relevant authorities, procedures and laws to ensure consistency of process between action arising from offences under the bill and action arising from offences under the *Mineral Royalty Act 1982* (NT).

2.8 The bill provides for the Governor General to make regulations as necessary to ensure the intended operation of the bill, including making necessary and rapid modifications resulting from unintended consequences arising from the amendment or repeal of the *Mineral Royalty Act 1982* (NT).¹

Financial impact

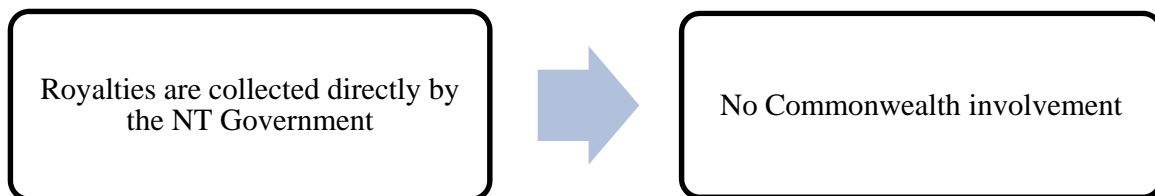
2.9 According to the Explanatory Memorandum, the Commonwealth would be in a revenue neutral position for new projects containing designated substances on non-ALRA land as the Commonwealth would be required to make payments to the Northern Territory Government of amounts equivalent to the royalties collected.

2.10 The Commonwealth would be in a revenue negative position for new projects containing designated substances on ALRA land as the Commonwealth would be required to make two payments of amounts equivalent to the royalties collected – one payment to the ABA and one payment to the Northern Territory Government.

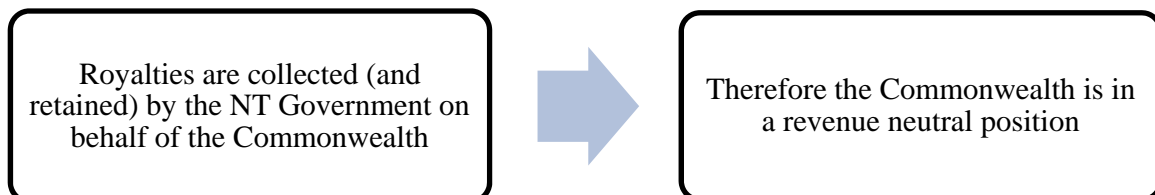
2.11 However, this would make uranium royalties consistent with the existing Northern Territory royalty regime for other minerals. That is, for non-uranium mines in the Northern Territory, the Northern Territory Government collects and retains the royalty and in addition the Commonwealth Government pays an equivalent amount to the ABA.²

Chart 1 – Distribution of mineral royalties in the Northern Territory under the bill

Distribution of royalties for non-uranium mining on non-ALRA land in the NT



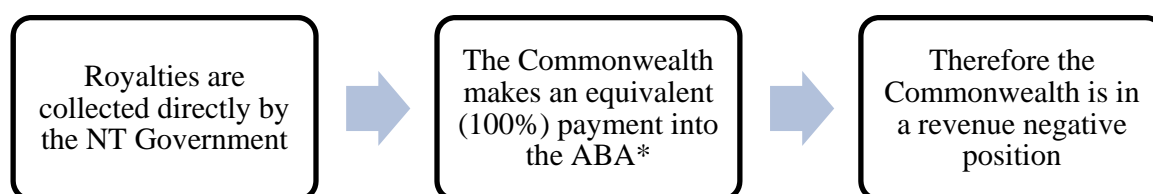
Distribution of royalties for uranium mining on non-ALRA land in the NT



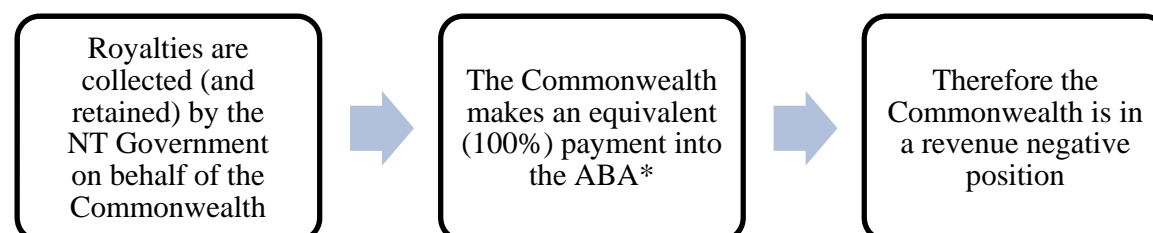
1 *Explanatory Memorandum*, p. 3.

2 *Explanatory Memorandum*, pp 2 and 20.

Distribution of royalties for non-uranium mining on ALRA land in the NT



Distribution of royalties for uranium mining on ALRA land in the NT



* The Aboriginals Benefits Account (ABA) is established and maintained under section 62 of the *Aboriginal Land Rights (Northern Territory) Act 1976* to receive royalty equivalent payments in respect of mining on Aboriginal land in the Northern Territory and to make payments to Aboriginal communities affected by mining operations on their land (30%), to land councils for their administration costs and for general Aboriginal developments in the Northern Territory. In 2007–08 the three major items of ABA cash flow expenditure were:

- \$25.084 million to Land Councils for administrative purposes
- \$24.977 million (30% of the royalty equivalent payments) to communities directly affected by mining operations; and
- \$20.311 million in discretionary grants for the benefit of Aboriginal people living in the Northern Territory.

Sources: *Explanatory Memorandum*, pp 2 and 25–26; Department of Families, Housing, Community Services and Indigenous Affairs, *Aboriginals Benefit Account (NT only)*, <http://www.facs.gov.au/internet/facsinternet.nsf/indigenous/programs-aba.htm> [accessed 17 April 2009]; *Aboriginals Benefit Account Annual Report 2007–08*.

The Government's objectives

2.12 The Explanatory Memorandum outlined the Government's objectives in relation to the bill as follows:

The Commonwealth, State and Territory Governments own the petroleum and mineral resources within their jurisdictions on behalf of the community. The Governments impose resource taxes or royalties on petroleum and mineral production to ensure that the community receives a fair share of the value generated from the development of community-owned resources. As noted above, the Commonwealth retained ownership of uranium minerals in the NT when it granted self-government to the NT in 1978.

The objectives of the exercise are to establish an efficient royalty regime to apply to new uranium projects developed in the NT so that regulatory certainty for potential investors in new uranium exploration and mining projects in the NT will be improved by them knowing the applicable royalty arrangements upfront, and to ensure that the community receives a fair share of the value from the development of uranium resources.³

3 *Explanatory Memorandum*, p. 14.