

Operational policy

Security for Mining Claims

MIN/2019/4921

03 March 2021

Version 1.03

1. Purpose

This policy provides information on the assessment process used to calculate the amount of security to be held against a mining claim granted under the Mineral Resources Act 1989 (MRA). The department is committed to ensuring the community does not incur financial burden due to mining activities carried out by resource authority holders. The department collects security as surety against the potential liabilities that the state of Queensland may incur as a result of mining activities.

Security is initially determined during the assessment and grant of an application for a new resource authority. The security amount will be reviewed when a renewal application is lodged. Additionally, under the security provisions of the MRA the delegate may, at any time, decide that the holder must deposit additional security.

This policy applies to applicants for new or renewed mining claims and for current tenements at any time during the term.¹

The principles of this policy may also be applied to the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCPC) in relation to security for the transfer of a mining claim.

The information contained in this policy does not override legislative requirements and reflects current practices within the department. These practices may change from time to time with all changes to be published through a revised version of this policy.

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

¹ Section 83(11) in the *Mineral Resources Act 1989*.

2. Background

2.1 Mining Claim

A mining claim is granted for small scale mining operations. It entitles the holder to extract specified minerals (other than coal) by hand-mining or, for prescribed mining claims, the use of machinery.

Before a mining claim is granted or renewed the department may require the applicant to pay reasonable security for:

- complying with the conditions of the mining claim (e.g. removing any structures on the site before the mining claim is terminated, making land owner compensation payments, or paying local government rates);
- complying with the provisions of the MRA (e.g. removing any plant or equipment on site before the mining claim is terminated);
- rectifying any actual damage that may be caused by any person whilst acting under the authority of the mining claim to pre-existing improvements for the mining claim; and
- amounts payable (other than penalties) under the MRA.²

If the mining claim expires or is terminated, an assessment of the condition of the permitted area will be undertaken. The security will either be refunded in whole or will be utilised should the department need to undertake remedial action (i.e. to remove structures from the claim area, pay outstanding rates). Any unspent money will be refunded.

3. Policy determination

Security assessment and calculation

1. The Minister (or delegate) will determine the amount of security to be deposited for a small scale mining tenure.

Where the Minister (or delegate) is considering fixing an amount of security for compliance with conditions in relation to any pre-existing improvements, equipment, activities and infrastructure, the following amounts may be considered as a starting point, having regard to the usual types of plant and equipment that are likely to be present:

- \$500 for a mining claim.

However, these amounts are for guidance only, and the Minister (or delegate) will consider the specific circumstances of each mining claim in determining the amount of security to be fixed.

2. When assessing a mining claim application or renewal, the department may determine the amount of security based on the work program activities proposed or being carried out on the claim. These include but are not limited to:
 - the type of mining and details of dimensions and methods of operation;

² Section 83 of the *Mineral Resources Act 1989*.

- proposed use of mining equipment;
 - water storage details;
 - the quantity and quality of ore or mineral;
 - proposed treatment of ore;
 - electrical equipment used on the site, and proposed power source;
 - plant and vehicles to be used;
 - sewerage and other septic systems;
 - the use of explosives; and
 - the types of temporary structures erected on the site and construction materials used.
3. When assessing security the Minister (or delegate) may also take into consideration any surface area that is proposed to be used for access.
 4. Security may be calculated using the self-assessment security calculator, which should be submitted with the small scale mining tenure application for the department to assess. The calculator can be accessed on the departments website.
 5. The security taken will also include reasonable provision for amounts payable by the mining claim holder, i.e. one year's worth of landowner compensation, and council rates and charges (including interest on unpaid rates and charges).
 6. The security calculation will be subject to a risk assessment. The risk assessment will take into consideration the impact of the holder's activities on landholders and the community and the likelihood of that impact occurring.
 7. Security may then be adjusted according to the level of risk, the holder's work program and the holder's compliance history.
 8. Risk may be increased where the mining claim is in a rural or remote area and/or the roads / tracks in the area are limited or nonexistent and it may be difficult to reach.
 9. The department will advise the applicants and holders of the reasons for any security that they are required to deposit.
 10. A tenement holder may request a re-assessment of security based on actions they have taken to lessen the impact and likelihood of risk. For example, a holder may advise that they have removed equipment or a temporary structure and provide photos as evidence.
 11. If the holder disputes the assessment they have the option to independently seek an assessment on demolition costs from a Queensland Building and Construction Commission registered builder. The assessment or quotation for the demolition and removal must satisfy the department that the proposed amount will be adequate with respect to the work program activities, temporary structures, plant, equipment and machinery planned or present on the claim. The quotation must relate to the tenement's current term.
 12. When a mining claim ends any mineral and/or property that remains on the land in the area of the former mining tenement will vest in the State. A holder has 20 business days from the claim's end to apply to remove any property (this time period can be extended up to 3 months). If no application is received or approved then three months after the

tenement ends the property may be sold by public auction or, if it has no commercial value, be otherwise disposed of or destroyed.

Form of security deposit

- 13.** Security is to be deposited in a form acceptable to the delegate. This may include cash or another form of security such as a bond, guarantee or indemnity by a financial institution.³ Other forms of security deposit must not be encumbered and must be readily available when required by the delegate.

New applications and transfers

- 14.** If the holder of a former resource authority applies for a new resource authority, instead of refunding the original security amount deposited, the department may retain that amount towards the security for the new resource authority.⁴ The delegate may also request additional security for the new resource authority.
- 15.** If a resource authority is transferred, any liabilities become the responsibility of the new holder. Prior to the transfer approval, the incoming holder will be required to replace the existing security or provide evidence that the existing holder has agreed to transfer the security with the transfer of the resource authority.

Release of security

- 16.** Once the resource authority ends the department will determine whether to release the security deposit. This involves considering whether the holder:
- has complied with the restoration requirements;
 - has caused damage to pre-existing improvements in the mining claim area;⁵ and
 - owes any amounts to the State or local government, such as or rates.
- 17.** Where security is held in the form of a guarantee or bond it will not be refunded to the mining claim holder. Any unused security will be refunded to the security provider (financial institution or credit provider).⁶

³ Section 83(10) of the *Mineral Resources Act 1989*.

⁴ Sections 84 of the *Mineral Resources Act 1989*.

⁵ *Pre-existing improvements*, for a mining tenement, means all improvements on, or attached to, the land the subject of the tenement immediately before the application for the tenement was lodged. See also s6C – what is carrying out improvement restoration.

⁶ Sections 83(16) of the *Mineral Resource Act 1989*.

Document information

Availability and location: External – Business Industry Portal

Owner and approver: Deputy Director-General, Georesources Division

Review date: January 2022

Related documents: This policy should be read in conjunction with the Security self-assessment calculator.

Contacts: For help and information about this policy, please contact the Small-Scale Mining Assessment Hub on 07 4987 9350 or email SSMHub@resources.qld.gov.au

Disclaimer

The purpose of this policy is to provide a framework for consistent application and interpretation of the legislation administered by the department. Policies may be applied flexibly where individual circumstances require an alternative application of policy. Where this policy, or part of this policy, is inconsistent with relevant legislation, the legislation will prevail to the extent of the inconsistency. While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Queensland Government should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Keywords

MIN/2019/4921; Resources; operational policy; 01/2019; Security; Deposit; small scale; mining claim; assessment