

Compliance with expenditure conditions

Guideline 3

This guideline summarises the requirements under the Mineral Titles Act 2010 (the Act) and Mineral Titles Regulations 2011 (the Regulations) for exploration licences (EL), in relation to compliance with expenditure conditions, partial cancellation for non-compliance and approved expenditure project areas.

Section 32 of the MTA – Conditions of EL

For section 32(2)(a)(ii) of the Act, it is a condition that the title holder must carry out the work in accordance with the expenditure requirement specified in the EL. This refers to the amounts to be expended during year one and two of the licence as specified at item one of the first schedule in the instrument of grant document.

Subsequent expenditure requirements relate to the amount specified in the annual notice detailing the work program and expenditure for the next operational year. Provision for this notice is made in the approved form 'Mineral Exploration Expenditure Reporting Form'.

(See also Guideline 6 'Minimum Admissible Expenditure')

Regulation 80 – Expenditure Project Area for ELs

For the purposes of this regulation, 'expenditure project area' means the title areas of 2 or more ELs on which the title holder intends to expend a substantial amount on carrying out technical work in the project area.

A holder of multiple EL's may apply to the Minister for approval of an expenditure project area. There is no approved form for this application however the request must be in writing and include the following information:

- the proposed project area name;
- a map depicting the EL's to be included in the project area;
- the following details for each EL:
 - grant date;
 - current operational year;
 - number of blocks held at the time of making the application; and
 - minimum expenditure amounts.
- a reporting day for giving the Minister a project expenditure notice of;
- the amount actually expended for that purpose during the previous 12 months; and

- the amount the title holder proposes to expend on carrying out technical work in the project area during the next 12 months

The pre-requisite for approval is all ELs within the proposed expenditure project area must be subject to an approved amalgamation of expenditure reporting and the nominated reporting day for giving the notice must reflect the same date for the giving of the amalgamated expenditure report.

In the event that an amendment is made to the approved amalgamated expenditure reporting arrangements, such as the addition of new ELs, notification of these changes is also required in relation to the expenditure project area.

If an application for an expenditure project area is approved:

- it is a condition of each EL in the project area that the title holder must give a project expenditure notice on or before the reporting day specified in the notice of approval;
- the project expenditure notice and the expenditure condition for the project area, applies in relation to all of the ELs specified in the notice of approval; and
- the amount specified in the project expenditure notice applies to all of those ELs but may be expended in any part of the project area.

Although dot point three above provides for the amount to be expended in any part of the project area, this should not be interpreted to mean that all work can be carried out exclusively in one area. The work should be carried out on several areas and, over a period of time, there is an expectation that work will be undertaken on all exploration licences within the project area.

The project expenditure notice does not replace an expenditure report required under section 94 of the Act. The title holder must give an amalgamated expenditure report, and any other report required under this section.

If the relevant expenditure condition for the project area has not been complied with in any operational year, the title holder may make one application to the Minister covering all ELs within the project area, for a variation of a condition under section 100(3)(b) of the Act and pay the fee mentioned in Schedule 1 Part 1 of the regulations. This application, and fee, should accompany the project expenditure notice.

Contravention of the expenditure condition within a project area may result in the cancellation of:

- the expenditure project area approved under regulation 80(3); and if the contravention relates to a consecutive two-year period;
- some or part of the ELs within the project area (section 105).

It is also important to note that contravention in an operational year when the title area must be reduced, may result in the Minister not considering an application to waive (all or part of) the required reduction of the title area made under section 29(4) of the Act.

Notwithstanding this, before the Minister makes a decision under 29(4), they must take into account the extent to which a reduction may affect the authorised activities being conducted under the project area.

In relation to the administration of reductions for title areas within an expenditure project area, the title holder will have two options:

- nominate to reduce the title areas in line with the normal reduction period (at the end of each two operational year period); or

- nominate a 'blanket deferral' of reduction to coincide with the nominated reporting day for giving the project expenditure notice. A deferral does not remove the requirement to reduce the title area, it simply changes the date by which the nomination of blocks must be undertaken.

If a deferral is the preferred option to facilitate effective administration of the EL's within the project area:

- rent will be payable for all blocks held in each EL area as at the end of each operational year (i.e. as at the anniversary of grant date annually).
- no refund will be payable for any area subsequently reduced.
- nomination of area to be retained, or application for a full or partial waiver of the reduction requirement and the prescribed fee mentioned in Schedule 1 Part 1 of the regulations, must accompany the project expenditure notice.

In all instances it is the Departments intent to adopt a flexible approach in relation to the requirements to reduce the title areas within a project area. This will provide the title holder with the ability to nominate blocks from all or some of the EL's in order to achieve the required 50% area reduction, providing the reduction does not result in more than three separate areas of at least four adjoining blocks within any EL.

Regulation 82 – Compliance with expenditure condition

The following information relates to ELs that are not subject to an approved expenditure project area, with the exception of action taken under section 105 to cancel part of the title area.

If the relevant expenditure condition has not been complied with in any operational year, the title holder may make application to the Minister for a variation of a condition under section 100 of the Act and pay the fee mentioned in Schedule 1 Part 1 of the Regulations.

Under the provisions of regulation 82(2), if the title holder contravenes the expenditure condition in an operational year when the title area must be reduced under section 29 of the Act (end of years 2, 4 and 6), the Minister need not consider an application to waive (all or part of) the required reduction of the title area made under section 29(4) of the Act.

Before making a decision to refuse an application under section 29(4), the Minister must take into account the effect that a reduction may have on the authorised activities being conducted on the project area (if applicable).

If the title holder contravenes the expenditure condition for two consecutive years, the Minister may take action under section 105 of the Act to cancel part of the EL title area.

The number of blocks subject to a cancellation for non-compliance with expenditure conditions, under section 105 relates to individual EL's and in the case of a project area, all EL's within that project area and will be calculated on:

- the proposed expenditure nominated for each of the two consecutive years;
- the amount to be spent on each block held in the second consecutive year (proposed expenditure divided by the number of blocks held);
- actual expenditure for the two consecutive years; and
- difference between the proposed expenditure and the actual expenditure (underspend).

The following formula will then be applied to the resultant figures:

Total underspend x 50% ÷ amount to be spent per block = number of blocks subject to cancellation.

Example:

\$145,000.00 (total consecutive 2-year proposed expenditure) ÷ 125 (number of blocks held in 2nd year of non-compliance) = \$1,160.00 (amount to be spent per block)

\$145,000.00 (total consecutive 2-year proposed expenditure) – \$72,100.00 (actual consecutive 2 year expenditure) = \$72,900.00 (underspend)

\$72,900.00 (total underspend) x 50% ÷ \$1,160.00 (amount to be spent per block) = 31.42 Blocks (number of blocks subject to cancellation)

Note for calculation

Despite the application of this calculation, section 100 provides for the Minister, on their own initiative and after consultation with the title holder, to amend, suspend, or remove a condition. The operation of this section in relation to non-compliance with the expenditure condition allows for the Minister to:

- amend the number of blocks that are subject to the partial cancellation; or
- waive the partial cancellation of the EL licence area, but only if satisfied the title holder has a reasonable excuse for non-compliance.

Note for Regulation 82

- Partial cancellation of an EL title area during the initial term of grant does not affect the requirement to reduce the remaining title area under section 29 of the Act.