

Instrument of Dealing – transfer, agreement, mortgage and devolution on a Mineral Title

Information Bulletin

Lodging an Instrument of Dealing

A mineral rights interest (dealing) is not capable of being created, transferred, assigned, mortgaged, charged, devolved or dealt with in any way except by written instrument. The Minister is not required to decide the validity of information given by a person in an instrument of dealing.

Approved forms are available on the [Departments website](#)¹ and must be used in all instances. You must ensure that all information required on the approved form is completed and, where required, appropriate attachments are provided. Lodgement must be accompanied by the appropriate fees mentioned under Schedule 1 Part 4 of the Regulations. These fees relate to each mineral title the subject of the dealing.

Transfers

All transfers must be assessed for Northern Territory stamp duty prior to lodgement with the Department.

Transfers can now be approved and registered against mineral title applications.

All mineral titles subject to the transfer must have complied substantially with the conditions of each title prior to the transfer being approved and registered by the Minister.

You may also make application to the Minister for a notice of approval of the transfer to be provided. Such a notice would include a statement that the transfer will be registered on a certain date or occurrence, or subject to a condition, specified in the notice.

The incoming party should always undertake normal “due diligence” procedures by requesting a Title Search to confirm that the title/s are in ‘good standing’, including all reporting requirements.

A Title Search can be obtained by email (titles.info@nt.gov.au) to the Department which entitles you to view a full extract from the register. A fee is payable for this request.

Once the transfer is registered, the incoming party agrees to comply with the existing expenditure requirements and all grant conditions, as prescribed by the Mineral Titles Act 2010 (the Act).

¹ <https://nt.gov.au/industry/mining-and-petroleum/mineral-titles/mineral-titles-forms-and-guidelines/dealings-forms-and-guidelines>

Agreements

Under the Act, an agreement is referred to as a general dealing. This type of dealing does not require Ministerial approval.

All agreements must be assessed for Northern Territory stamp duty prior to lodgement with the Department.

Agreements may be lodged against applications for mineral titles and granted mineral titles.

If the agreement is a Joint Venture with the incoming party earning equity, that equity can only be registered by way of transfer. Regardless of the contents of any agreement, the title holder has the ultimate responsibility to ensure that all statutory requirements under the Act are met.

The Minister must register the Agreement unless satisfied there are circumstances why he or she should refuse to do so.

Severe penalties apply for failure to pay duty on a dutiable instrument. The purported approval and registration of that instrument will be null and void by virtue of Section 9A of the Stamp Duty Act 1978.

Mortgage

Under the Act, a Mortgage is referred to as a general dealing. This type of dealing does not require Ministerial approval.

The Minister must register the general dealing unless satisfied there are circumstances why he or she should refuse to do so.

A copy of the mortgage document must be provided.

Devolution

Devolution is the legal term used for the transmission of property consequential upon the death of a person, the bankruptcy of a person or the receivership, bankruptcy and/or liquidation of a company who are the holder of an application or mineral title or of an interest therein. The application or mineral title will devolve onto the trustee or representative.

A person on whom a mineral rights interest has devolved by operation of law must apply in the approved form to the Minister for registration of the devolution.

A copy of the “Grant of Probate” issued by order of the Supreme Court, accompanied by a copy of the Will or Authority under Section 35 of the Public Trustee Act 1979, or certified copy of appointment as Liquidator/Receiver in Bankruptcy is required.

If no Will has been left by the deceased you can apply to the Supreme Court for “Letter of Administration”, which is a legal document naming someone to administer an estate when no executor has been named, due to the absence of a will.

The court may grant administration of the estate of the intestate person to:

- The spouse or de facto partner of the deceased;
- One or more of the next of kin;
- The spouse or defector partner conjointly with one or more of the next of kin; or
- Such person, whether a creditor or not of the deceased, as the court thinks fit.

Information on Wills and Probate can be found on the [Supreme Court website](#)².

Further information

Mineral Titles

5th Floor Centrepoint Building, The Mall

Darwin, Northern Territory

Phone: 08 8999 5322

Email: titles.info@nt.gov.au

Disclaimer Whilst this information bulletin has been provided to assist applicants in their compliance with the Act, it is incumbent on them to acquaint themselves with the provisions of the Act and all other laws of the Northern Territory as are applicable. Fees are subject to change without notice.

² <https://supremecourt.nt.gov.au/about/registry/wills-and-probate>