



SURRENDER AND FORFEITURE



SURRENDER AND FORFEITURE UNDER THE CURRENT ACT

An operator can surrender a lease or licence, in part or in full, by making an application to the Minister. Mineral claims can only be fully surrendered, in accordance with the procedures set out in the *Mining Act 1971* and Regulations.

A surrender application cannot be approved unless all rent, royalties and fees have been paid; the land has been rehabilitated in accordance with the requirements of the Regulator; and all requirements of the Act have been complied with.

Leases can be forfeited in accordance with the Warden's Court process outlined in the Act.

The Court may recommend to the Minister that the tenement be forfeited if the Warden is satisfied that the requirements of the Act have not been complied with in a material respect, or if the matter is of sufficient gravity to justify forfeiture. There is a similar procedure in relation to mineral claims.

The Discussion Paper suggested that one of the ways to ensure greater compliance and competition in the exploration industry could be to introduce a more comprehensive forfeiture process (like that used in relation to leases) so that another explorer could seek to have a licence forfeited and transferred to them for the remainder of the term of the licence if, for example, the required amount of exploration is not being undertaken.

WHAT YOU SAID

Some submissions outlined that they did not support the forfeiture provisions applying to exploration licences as they feared that it may result in vexatious litigation between companies (particularly impacting junior explorers) and potential land grabbing. Other submissions recommended that forfeiture provisions should relate to exploration licences where the explorer has materially breached their licence or PEPR conditions or other Mining Act obligations.

FUTURE DIRECTIONS BEING CONSIDERED

The Review Team is considering recommending amendments that will clarify the process around surrender and forfeiture, and the requirements around providing certainty to the Minister, industry and community that all environmental and rehabilitation requirements have been complied with.

Surrender processes will also interact with new provisions relating to financial assurance (eg. residual risk payments). For further information on financial assurance see *Policy Direction 17: Financial Assurance*

Amendments will also provide for increased enforcement powers relating to surrender and forfeiture, and increased requirements around the Courts assessment of the financial and technical capabilities of a forfeiture applicant.

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