

Guideline for administrators and liquidators of a company holding resource authorities

Key considerations for administrators and liquidators of companies with applications or granted resource authorities under the *Mineral Resources Act 1989*

Introduction

Queensland's mineral and energy resources are managed by the Department of Resources (the department) on behalf of all Queenslanders. To explore for or mine coal or mineral resources in Queensland, a company must first apply for and be granted an appropriate resource authority.

There are a range of obligations that continue to attach to a corporate holder of granted resource authorities even when the company has become insolvent and gone into voluntary administration or liquidation.

These obligations are generally listed on the letter of grant as mandatory conditions, outlined in the governing legislation, and/or attached to the Environmental Authority issued by the Department of Environment and Science.

Administrators and liquidators need to understand and address these obligations.

Administrators and liquidators therefore should familiarise themselves with the relevant requirements of resource legislation, regulations and conditions that apply to granted resource authorities in order to properly maintain or dissolve the assets while the company remains insolvent and under their management.

Purpose

This guideline gives administrators and liquidators general information about resource authorities and how to ensure they remain compliant with their obligations during administration or liquidation.

This guideline applies to resource authorities issued under the *Mineral Resources Act 1989* (the Act) and the Mineral Resources Regulation 2013 (the Regulation)

<https://www.legislation.qld.gov.au/browse/inforce>

Obtaining details of all resource authorities

Upon your appointment as an administrator or liquidator (the appointee), all current resource authorities held by the insolvent company will automatically vest in you to the extent provided under the *Corporations Act 2001* (Cth). To ascertain the number of resource authorities held by a company that has gone into voluntary administration or liquidation, the appointee should immediately conduct a public search of the departmental register MyMinesOnline:

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/online-services/myminesonline>

General information

The Act describes what needs to be done to ensure you, the appointee, fulfil your statutory obligations as holder of a resource authority. The Regulation supports the Act, and describes how the Act's requirements are to be carried out to ensure compliance with your authority obligations.

For the purposes of this guideline, a **resource authority** is a mining claim, exploration permit, mineral development licence, mining lease or water monitoring authority granted under the Act.

Prospecting permits will not be considered in this guideline as their term is limited to three months.

A granted resource authority authorises certain activities (authorised activities) that may be carried out in the area of the authority by the holder in order to identify and mine any significant resources.

You need to be aware that the Minister for Resources may at any time, by notice in writing, cancel a resource authority for non-compliance with its conditions. This action can only be taken after a show cause notice has been sent to you.

Notifying a change of address for service of correspondence

All communication from the department (and possibly third parties) to the resource authority holder will be addressed to the Authorised Holder Representative that is listed in the departmental register MyMinesOnline.

This address may not be correct for a number of reasons including:

1. The insolvent company may have changed its registered office in an attempt to defeat creditors and lodged an incorrect address with ASIC;
2. The insolvent company may have a forwarding service attached to the address for service to a post office box;
3. If a letter is returned to sender unopened.

To be certain that all future correspondence regarding resource authorities is directed to you as the appointee, a change of address form is required to be submitted to the department, together with evidence of your appointment. If a court has approved your appointment you must include the court document. The change of address form can be accessed at:

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/authorities-permits/forms>

If you, as the administrator or appointee, require the Authorised Holder or Authorised Holder Representative to continue to receive all correspondence for the resource authority, this change is also provided for on the change of address form.

The following information will be included in the authorised holder address register when the change of address is registered:-

Citation Resources Operations Pty Ltd (*No change to holder name*)

Administrator appointed

Administrator's Name

Administrator's Address

City State Postcode

Statutory Requirements

The administrator should be aware of all statutory requirements that apply to resource authorities and of all special and mandatory conditions attached to the granted resource authorities in question. Special conditions can easily be obtained by a general search of the MyMinesOnline database under resource authority public reports. Mandatory conditions and statutory requirements are contained within the Act and the Regulation.

The main statutory requirements include:

Rental and fees – Annual rent is payable on resource authorities (with the exception of mining claims). The relevant rental rates are found in Schedule 4 of the Regulation.

Rental due dates vary depending on resource authority type.

- Exploration permits (EPs): annual rental payable on the anniversary date of grant;
- Mineral Development Licences (MDLs) and Mining Leases (MLs): annual rental is due 31 August of each year, payable in advance for 1 September – 31 August the following year.

You will be sent an invoice before rental becomes due. Where rental remains unpaid after the due date on the invoice, the department will commence debt recovery action.

Please note - an additional amount of 15% of the rent is payable if rent is not paid by the due date on mining leases and mineral development licences. If you fail to pay rent and penalties the lease or licence may be cancelled.

Fees and charges are generally increased each year on 1 July in line with the consumer price index (CPI). For information on the rent amounts payable for each resource authority, please refer to the Regulation.

Royalties – Mining royalties are payments made to the owner of resources for the right to extract them. In Queensland royalties are generally paid to the Office of State Revenue. If your resource authority allows minerals to be extracted, you must pay royalties monthly, quarterly or annually, depending on the type of authority and the size of the activity. Knowing what obligations you must satisfy will help you to avoid reassessments, interest and penalties.

Royalties must be paid by the due date of each monthly instalment or relevant royalty return.

A person who is appointed as administrator for the property of a person by whom a royalty-related amount is payable must, before the required date, give written notice to the Minister of the appointment. The required date is 14 days after the administrator becomes aware that the royalty-related amount is payable by the person, even if the extent of the liability is not then ascertainable, or a later date allowed by the Minister. Penalty fees can be applied in some cases to outstanding royalty returns. For more information see: <https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/authorities-permits/payments/royalties/paying>

Required Reporting

The following reports **must be submitted** within the timeframes indicated:

Report type	Lodgement timeframe
<p>Activity report (exploration permits and MDLs)</p> <p>Provide a full technical summary of the authorised activities, including maps, and a digital copy of all data assay results and any geophysical, geochemical, drilling or remote sensing data on an annual basis.</p>	<p>Lodge within one month of the end of each year of the term of the authority.</p> <p>Also include an expenditure statement (separate report) at the same time (see expenditure statement template)</p>
<p>Partial relinquishment report (exploration permits and MDLs)</p> <p>Each report must provide a full technical summary of the authorised activities, including maps, and a digital copy of all geochemical and geophysical surveying data.</p>	<p>Must be lodged whenever you relinquish or surrender areas from your authority (includes partial relinquishment or final relinquishment of the authority).</p> <p>Lodge within two months from the date the Minister consents to the partial or full surrender of the authority.</p>
<p>Final report (exploration permits and MDLs)</p> <p>The final report must include the same information as the partial relinquishment report and also contain an itemised statement of expenditure and the reason the permit or licence ended.</p>	<p>Lodge within two months of the authority ending due to surrender, expiration or cancellation.</p>
<p>Activity report (coal and oil shale mining leases)</p> <p>Provide details about amount and location of each mineral mined (including CSG), minerals disposed of, details of any subsidence, mine working envelopes etc.</p>	<p>Lodge within 2 months after each anniversary day (date the lease was granted).</p>
<p>Relinquishment report (coal and oil shale mining leases)</p> <p>Provide details about authorised activities, the results of the activities and any other data or information required under the practice direction</p>	<p>Must be lodged whenever you relinquish part of the area of the lease</p>
<p>Surrender report (coal and oil shale mining leases)</p> <p>Provide details of the authorised activities carried out on the land proposed to be surrendered and results of the activities.</p>	<p>Lodge with a surrender application for the coal or oil shale mining lease.</p>

Reports about drilling CSG wells (coal and oil shale mining leases)

Lodge as per relevant section.

Sections 29D-29G of the Regulation describe reports required to be provided in relation to CSG wells.

The broad content requirements for lodging reports are outlined in the Act and the Regulation. Failure to lodge required reports in the timeframes provided may result in cancellation of an authority.

Assistance documents

Reporting - The Queensland Resources Reporting Lodgement Guideline details the required content, standards and formats for reporting. The Guideline can be accessed at:

https://www.dnrme.qld.gov.au/_data/assets/pdf_file/0003/1522227/resources-reporting-lodgement-guideline.pdf

Relinquishment – A relinquishment is a reduction in the area of an exploration permit. The types of relinquishments and associated requirements vary across all resources legislation. Refer to the relinquishment guide: <https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/legislation-policies/policies-guidelines>

The relinquishment schedule can be viewed through the Resource Authority Public Report in MyMinesOnline which provides the dates for each relinquishment and defines how many sub-blocks are required for each relinquishment. The type of resource authority will also determine how many sub-blocks are required to be relinquished.

Renewal – The Renewal guideline (petroleum) and the Renewal guideline (minerals and coal) provide information about the renewal process for resource authorities including key dates and why they are important, how to make a renewal application, ensuring all obligations have been met as part of the grant of the authority being renewed, paying renewal fees and relinquishing land. For more information see: <https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/legislation-policies/policies-guidelines>

Renewal applications can only be made within the timeframe specified in the Act. If an application for renewal is not properly made within the renewal period, the resource authority will expire. A shorter period for lodgement of a renewal application may be allowed in particular cases before the current term expires.

If an application to renew a coal mining lease or an oil shale mining lease is made less than 6 months before the end of the term of the lease, the application must be accompanied by an amount that is 10 times the usual prescribed renewal fee.

Work programs and development plans

A work program or development plan is a detailed description of the exploration or production activities that are committed to be performed by the holder for each year. It provides the department

with an understanding of the nature and extent of proposed authorised activities to be conducted and whether these activities are appropriate for the geology of the area.

Failure to comply with an approved work program or development plan can result in the resource authority being cancelled or penalties being imposed. In some instances a variation to the work program may be considered.

Failure to lodge a proposed work program or later development plan prior to the expiry of the approved work program or development plan period may also result in cancellation of the resource authority. For a coal or oil shale mining lease, if the proposed later development plan is lodged after the time required, a fee that is 10 times the prescribed fee will be incurred.

Work program and development plan guidelines can be found at the following site:

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/authorities-permits/applying/development>

Resource authority applications

If a company in administration or liquidation has outstanding resource authority applications then the appointee needs to assess these carefully. The applications may have some particular commercial worth and for this reason, any decision made to withdraw or abandon any application needs to be analysed carefully so value is not lost. An application, other than a mining lease, cannot be transferred through the ordinary transfer mechanisms under the Act and can only be transferred after grant.

Some complexity arises if the liquidator completes the liquidation and proceeds to deregister a company which holds resource authorities or has pending applications. If a granted authority is still held by the company upon deregistration, it is property that will likely vest in ASIC pursuant to the *Corporations Act 2001* (Cth). If a resource authority application is in the name of the company, then it will not likely vest in ASIC as an application is not regarded as property. Deregistration of a company should not be completed until all outstanding issues concerning resource authority applications and granted authorities are dealt with.

Safety and health obligations

Resource authority holders still have relevant safety management obligations, for managing the site of the authority, under the *Coal Mining Safety and Health Act 1999* or the *Mining and Quarrying Safety and Health Act 1999*. These Acts would apply to, for example, site security, onsite contractors, or other onsite staff managing the site.

Resource authority holders must comply with mining safety and health reporting requirements for coal mines and metalliferous mines and quarries. Detailed information regarding notification requirements and forms can be found at the following site <https://www.business.qld.gov.au/industries/mining-energy-water/resources/applications-compliance/lodging-statutory-reports/coal-minerals-reporting/safety-health-coal>

Safety and Health Levy – Financial Hardship – The Safety and Health Levy is a regulatory fee charged for safety and health services provided by the State to mining operations. Queensland mining and quarrying operators are required to supply information for all or part of the previous 12 months on the Queensland Mining and Quarrying Industry Census Form, located online <https://www.business.qld.gov.au/industries/mining-energy-water/resources/safety-health/mining/levy-census>

The census form for calculating the annual Safety and Health Levy must be lodged quarterly with the department within 20 days of the end of each quarter. For more information about completing the census forms, phone (07) 3199 8019 or (07) 3199 8014 or email safetyandhealthfee@rshq.qld.gov.au

The information supplied on the forms is used to determine the annual amount of the levy/fee payable by the responsible person/operation. If a company has notified the department that they are in receivership, liquidation or voluntary administration the department is still required to recover funds however a request may be made in writing to amend or resubmit a census form. This request will be reviewed in accordance with legislation. In this circumstance interest will not be charged on invoices that are paid late.

Environmental authorities

If you hold an Environmental Authority (EA), you will need to comply with the requirements of the EA and the *Environmental Protection Act 1994* (EP Act).

These requirements are in addition to the environmental obligations that everyone must comply with, and include:

- paying annual fees and submitting annual returns
- complying with the conditions on your EA
- preparing a plan of operations for an EA relating to mining lease (for calculating estimated rehabilitation costs)

The EA sets environmental standards for air, water, regulated structures, noise, land and rehabilitation. The administering authority has a range of compliance powers and statutory enforcement tools that they can use in the event that environmental obligations are not being met. These include warning notices, environmental protection orders, environmental evaluations and investigations, inspections and audits, court orders, penalty infringement notices and prosecutions. It may also include stopping an activity or suspending an approval until the department is satisfied that the activity will be properly managed.

Financial Provisioning Scheme (FPS) – from 1 April 2019 financial assurance requirements for resource activities under the EP Act were replaced with the FPS under the *Mineral and Energy Resource (Financial Provisioning) Act 2018*. If you hold an EA you will need to know about the estimated rehabilitation cost (ERC) for an EA to understand how the FPS applies to you.

For more information about the Financial Provisioning Scheme phone (07) 3035 3551 or email FPS@treasury.qld.gov.au or refer to the departmental website: <https://www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme>

The department responsible for administering the *Environmental Protection Act 1994* is the Department of Environment and Science. Further information regarding environmental compliance and enforcement guidelines can be found online at www.des.qld.gov.au.

Water reporting

Water use on resource authorities is monitored and evaluated for compliance under the *Water Act 2000*. The appointee should be aware that mining lease and mineral development licence holders must comply with water reporting and notification requirements related to the take of associated water.

An explanation of associated and non-associated water - a Quick guide and a number of guidelines have been prepared by the department on how to lodge your notices and reports and the obligations of the authority holder under mining and water legislation

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/applications-compliance/lodging-statutory-reports/coal-minerals-reporting/water-reporting>

Contacts

It is best to get additional assistance and information from departmental employees who administer resource authorities or, geologists, tenement consultants or lawyers who are familiar with these matters.

You can lodge and track the progress of most applications online through [MyMinesOnline](#).

For general enquiries contact the relevant Assessment Hub.

Mineral Assessment Hub

The Mineral Assessment Hub is located in **Townsville** and administers mineral mining authorities. These include mining claims, mining leases, mineral development licences, exploration permits and prospecting permits. If a mining lease or mining claim for a mineral (other than coal) is located in the Quilpie, Emerald and Winton districts, these permits are also administered by the Mineral Assessment hub.

Level 9, 445 Flinders Street
Townsville QLD 4810

PO Box 1752, Townsville QLD 4810
Phone: (07) 4447 9230
Email: MineralHub@resources.qld.gov.au

Coal Assessment Hub

The Coal Assessment Hub is located in **Rockhampton** and administers all coal mining authorities. These include mining leases, mineral development licences, exploration permits and prospecting permits for coal.

Building E, 25 Yeppoon Road
Parkhurst QLD 4702

PO Box 3679, Red Hill QLD 4701
Phone: (07) 4936 0169
Email: CoalHub@resources.qld.gov.au

Queensland Government websites

Queensland Government websites contain useful information fact sheets, guidelines, policies and procedures. Links are also provided for legislation, forms and prescribed fees. See online at <http://www.business.qld.gov.au/industries/mining-energy-water/resources>

The Department of Resources website is www.resources.qld.gov.au.

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Contact:	<p>For help and information contact an Assessment Hub – refer to contacts section</p> <p>For technical support contact the MyMinesOnline Helpdesk. Telephone: +61 7 3199 8133 Email: mines_online@resources.qld.gov.au</p> <p>8.30am – 4.30pm (AEST) Monday to Friday on Queensland business days.</p>

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