



MINING ACT 1978 - SECT 102

102 . Exemption from expenditure conditions

(1) Subject to this Act, on an application (an *application for exemption*) made, as prescribed, by the holder of a mining tenement (other than a retention licence) or his authorised agent prior to the end of the year to which the proposed exemption relates, or within the prescribed period after the end of that year, the holder may be granted a certificate of exemption in the prescribed form totally or partially exempting the mining tenement to which the application relates from the prescribed expenditure conditions relating thereto, in an amount not exceeding the amount required to be expended —

(a) in respect to any mining tenement other than a mining lease, in any one year; and

(b) in respect to a mining lease, subject to subsection (7), in a period of 5 years.

(1a) An application for exemption may relate to more than one mining tenement.

(2) A certificate of exemption may be granted for any of the following reasons —

(a) that the title to the mining tenement is in dispute; or

(b) that time is required to evaluate work done on the mining tenement, to plan future exploration or mining or raise capital therefor; or

(c) that time is required to purchase and erect plant and machinery; or

(d) that the ground the subject of the mining tenement is for any sufficient reason unworkable; or

(e) that the ground the subject of the mining tenement contains a mineral deposit which is uneconomic but which may reasonably be expected to become economic in the future or that at the relevant time economic or marketing problems are such as not to make the mining operations viable; or

(f) that the ground the subject of the mining tenement contains mineral ore which is required to sustain the future operations of an existing or proposed mining operation; or

(g) that political, environmental or other difficulties in obtaining requisite approvals prevent mining or restrict it in a manner that is, or subject to conditions that are, for the time being impracticable; or

(h) that —

(i) the mining tenement is one of 2 or more mining tenements (*combined reporting tenements*) the subject of arrangements approved under section 115A(4) for the filing of combined mineral exploration reports; and

(ii) the aggregate exploration expenditure for the combined reporting tenements would have been such as to satisfy the expenditure requirements for the mining tenement concerned had that aggregate exploration expenditure been apportioned between the combined reporting tenements.

(2a) In subsection (2)(h) —

aggregate exploration expenditure means expenditure —

- (a) on, or in connection with, exploration for minerals on the combined reporting tenements; and
- (b) worked out in a manner specified in the regulations.

(3) Notwithstanding that the reasons given for the application for exemption are not amongst those set out in subsection (2), a certificate of exemption may also be granted for any other reason which may be prescribed or which in the opinion of the Minister is sufficient to justify such exemption.

(4) When consideration is given to an application for exemption regard shall be had to the current grounds upon which exemptions have been granted and to the work done and the money spent on the mining tenement by the holder thereof.

(5) An application for exemption —

- (a) where an objection to the application is lodged, shall be heard by the warden; but
- (b) otherwise, shall be forwarded to the Minister for determination by the Minister.

(6) The warden shall as soon as practicable after the hearing of the application transmit to the Minister for his consideration the notes of evidence and any maps or other documents referred to therein and his report recommending the granting or refusal of the application and setting out his reasons for that recommendation.

(7) Where the warden finds that the reasons given by the holder of the mining lease are sufficient to justify the granting of a certificate of exemption and so recommends, or if the Minister is satisfied whether or not a recommendation is made by the warden, the Minister may grant a certificate of exemption in an amount not exceeding the amount required to be expended in respect of the mining lease in the period of 5 years from the commencement of the year to which the application relates.

[Section 102 amended: No. 69 of 1981 s. 23; No. 100 of 1985 s. 76; No. 105 of 1986 s. 14; No. 22 of 1990 s. 32; No. 37 of 1993 s. 10(2); No. 15 of 2002 s. 24; No. 39 of 2004 s. 66 and 94.]