



REVISED AS AT JULY 2020

# SECTION 40E PERMIT SYSTEM

## Access to prospect on Crown land within an Exploration Licence



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### Introduction

From 2 February 2013, amendments to the *Mining Act 1978* and Regulations 1981 included the insertion of Part IIIA – Miners Right and related permits. Sections 40A , 40B, 40C, 40D, 40E, 40F and 40G were inserted. Section 40E allows the holder of a Miner’s Right to apply for a permit to prospect on land within an existing exploration licence.

These new amendments replace the old amendments made on 5 February 2001, namely deleted sections 20A, 20B and 20C.

Increased access to granted exploration licences was given after extensive consultation with mining industry groups.

### The permit system

The permit holder can gain access to a nominated area of Crown land or conservation land on a granted Exploration Licence, described by graticular blocks, for a period of three months, but using only hand-held tools.

Prospecting is limited to Crown land within a granted Exploration Licence. Crown land for these purposes includes vacant Crown land, pastoral lease land and reserved land for common, mining and public utility. A permit does not allow prospecting to be carried out within a national park, nature reserve, part of a townsite or another type of classified reserve (such as a cemetery) or private property (such as farmland).

Although the consent of the Exploration Licence holder is not required, the licence holder will be notified by the Department of Mines, Industry Regulation and Safety (DMIRS), of the issue of a permit and has 21 days to advise the permit holder in a licensee statement of any concerns relating to the nominated area.

Prospectors should plan and apply for a permit well in advance of the field trip, to allow for the 21 days advice period before the permit becomes operational (if a licensee statement has not been received). When the permit is issued, access to the Exploration Licence is not allowed for the first 21 days or until a permit holder receives a licensee statement, whichever occurs sooner.

## Features of the permit system

- A Section 40E Permit:
  - is issued for a three months and is not transferable between parties;
  - is restricted to a maximum of 10 nominated graticular blocks within one granted exploration licence (one block is approximately 310 hectares). The nominated blocks must be in one group and each block must have a common side to another block;
  - permit fee applies for each application regardless of the number of blocks being applied for;
  - may include up to three holders who are jointly liable for any activities conducted under the permit;
  - limits prospecting activities to a depth of two metres from the natural surface;
  - allows a maximum sample limit of 20 kilograms;
  - allows prospecting activities to commence on the Exploration Licence 21 days after the issue date of the permit or when the licence holder has provided a licensee statement to the permit holder, whichever occurs sooner;
  - does not allow the use of power or hydraulically driven hand-tools;
  - will be subject to standard protective conditions and notes, which can be varied or added to the permit by the issuing officer.

## Applying for a Section 40E Permit

- An application must be made on the Mining Act Form 1A with the permit fee.
- An application can only be in a person's name, not a company name.
- An application may include up to three holders. Each holder must have a current Miner's Right. Each holder must complete and sign the application form. All applicants are jointly liable for any activities conducted under the permit.
- The application must list the make, model and licence plate for each vehicle to be used on the nominated exploration licence.
- An application can be lodged at any Mining Registrar's office.

## Issue of permit

- The permit holder will receive a permit and map of the area showing the nominated graticular blocks on the Exploration Licence.
- The permit holder must forward a copy of the permit and map to any pastoralist affected, before commencing prospecting.
- The department will notify the exploration licence holder by mail, with a copy of the permit and map.
- A permit holder cannot apply for a permit to access an Exploration Licence if they already hold a permit over any part of the same licence.
- A person can apply for more than one permit for different exploration licences at the same time. However, the permits would operate concurrently – start times cannot be staggered to suit the applicant.
- There can be more than one permit over the same graticular block, but held by different permit holders.

## Surrender, cancellation or expiry of a permit

- **Surrender:** A permit holder may surrender a permit by lodging a notice in writing to the department. Each permit holder (if there is more than one) must sign the surrender notice. The permit should be handed back, if available (regulation 4j).
- **Cancellation:** the Minister may cancel the permit for various reasons. The department will notify the permit holder in writing.
- **Expiry:**
  - is automatic three months after the date of issue;
  - occurs when the relevant exploration licence is no longer in force; and
  - occurs when a Mining Lease, General Purpose Lease, Special Prospecting Licence or Retention Licence is granted over that land, in which case the department will notify the permit holder in writing.
- The Minister may exempt any Exploration Licence or area of the State from the operation of the permit system. Any current permit within the relevant area will not be affected.

## Obligations and penalties

- Activities of the licence holder always take precedence over prospecting activities of a permit holder. No prospecting may take place within 100 metres of any activity being undertaken by or on behalf of the licence holder.
- If vehicles other than those nominated on the application for this permit are to be used, the holder of the Exploration Licence is to be given prior notice.
- The permit holder must advise the licence holder and the department of any mineral recovered within 14 days of expiry, cancellation or surrender of the permit.
- All disturbances to the land are to be filled or otherwise made safe after completion of prospecting activities and all waste materials, rubbish, etc. is to be removed from the permit area prior to leaving the area.
- There are prescribed penalties for breach of the permit system. If a permit holder is in breach, they are liable for a fine of up to \$5,000, the permit may be cancelled and they may be disqualified from obtaining another permit for up to three years.
- Complaints of unlawful mining under the permit system will be investigated by the department.

## General information

- The **licensee statement** is a written statement by a holder of an exploration licence setting out any comments the licence holder wishes to make in relation to prospecting activities proposed to be carried out on the land under a permit.
- **A permit holder is responsible for their safety** when operating on an exploration licence.
- **It is the responsibility of the permit holder to ensure they comply with the Mining Act and Regulations at all times.** The permit holder should be certain what portions of the applied for graticular blocks are not available for prospecting upon, (e.g. any private land or reserved land). The department will supply a Tengraph map when the permit is issued.
- **Tengraph** is a computer-based graphical system that shows the boundaries of mining tenements throughout Western Australia. This system is freely available at Mining Registrar offices, Head Office at Perth or on line through the department's web site ([www.dmp.wa.gov.au/prodserv/remote/tengraph/index.html](http://www.dmp.wa.gov.au/prodserv/remote/tengraph/index.html)).

Registration is required to allow online access to the system by contacting the department's Helpdesk on (08) 9222 0777.

- **What is a graticule, a graticular section and a block?**

- The surface of the earth is divided by predetermined lines of latitude and longitude into regular units of land.
- The lines are known as graticules and the units of land created are called graticular sections.
- The basic graticular section under the legislation is one minute of latitude by one minute of longitude and is called a block (graticular block).

For more information see information pamphlet titled '**Exploration Licences Graticular Boundary System**'.

- The area of a block in Western Australia averages 310 hectares.

- A permit may be granted for graticular blocks that are within the boundaries of a non-graticular Exploration Licence. Where the graticular block is partially captured within the boundary of the non-graticular licence, the permit holder can only prospect on the portion of the block within the boundaries of the licence.

*The department is keen to receive feedback on the operation of the permit system. Any concerns with the permit system and activities of prospectors or licence holders, should be sent to the Executive Director, Resource Tenure, Department of Mines, Industry Regulation and Safety, 100 Plain Street, East Perth 6004.*

## **Standard conditions and notes on a Section 40E Permit**

### **Conditions**

1. Prior to commencement of prospecting activities, the permit holder must forward a copy of the permit to the holder of any pastoral lease affected.
2. No prospecting activities are to commence within the first 21 days of the term of the permit unless a licensee statement under regulation 4H of the Mining Regulations 1981 has been received.
3. Prospecting under this permit is restricted to Crown land within the blocks nominated in the permit and to a depth of two metres from the natural surface of the land.
4. All disturbances to the land are to be filled or otherwise made safe after completion of prospecting activities and all waste materials, rubbish, etc. is to be removed from the permit area prior to leaving.
5. Only hand-held tools may be used, and the use of explosives and powered or hydraulically driven tools is prohibited.
6. No prospecting activities shall occur within 100 metres of any activities being carried out by or on behalf of the holder of the nominated Exploration Licence.

### **Notes**

1. The permit holder's attention is drawn to the provisions of the *Aboriginal Heritage Act 1972*.
2. If vehicles other than those nominated on the application for this permit are to be used, the holder of the Exploration Licence is to be given prior notice.
3. The permit holder is required to comply with the prescribed sample or specimen limit of a maximum of 20 kilograms, referred to in regulation 4 of the Mining Regulations 1981.
4. The permit holder is required to advise the holder of the Exploration Licence and the department of any minerals recovered within the permit area within fourteen (14) days of the expiry, cancellation or surrender of the permit.

Government of Western Australia

**Department of Mines, Industry Regulation  
and Safety**

8.30am – 4.30pm

Mineral House, 100 Plain Street  
East Perth, Western Australia 6004  
Tel: +61 8 9222 3333  
Fax: +61 8 9222 3862

**Online**

Website: [www.dmirs.wa.gov.au](http://www.dmirs.wa.gov.au)  
Email: [mineraltitles.enquiries@dmirs.wa.gov.au](mailto:mineraltitles.enquiries@dmirs.wa.gov.au)

**Mailing address**

Locked Bag 100  
East Perth WA 6892

**National Relay Service: 13 36 77**

**Translating and Interpreting Service (TIS) 13 14 50**

**This publication is available in other formats  
on request to assist people with special needs.**

N.B. The information contained in this pamphlet is designed to assist in gaining a general awareness of the requirements of the *Mining Act 1978* and is not intended to be a substitute for understanding the statutory requirements of the Act and Regulations thereunder.