

Falkland Islands Government
Department of Mineral Resources

**Guidance on Model
Conditions for Prospecting
for Minerals** (excluding “common
minerals”)

Version Control:

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First version post-ExCo –
prospecting only



1 Guidance on model conditions

- 1.1** The Model Conditions are those which will normally be applied to all prospecting and exploration licences. These conditions may be varied or added to if considered necessary by DMR.
- 1.2** Below the model conditions are shown in black type and guidance in blue. Prospecting licences are dealt with in a separate guidance document to exploration licenses as it is anticipated that the type of work is commensurate with the type of licence and impact.

2 Local agent

- 2.1** Before commencing the programme of work authorised by the licence, the licensee must appoint an agent. The agent must be resident in the Falkland Islands for the duration of the work programme and is the point of contact and the person on whom notices can be served on behalf of the licensee. The agent's address and full contact details must be provided to the Director prior to the commencement of the programme of work, and updated within one week following any change.
- 2.2** It is important that DMR have a clear line of communication with a locally based person who represents the Applicant. This will ensure that any issues that arise can be quickly raised and dealt with. Whilst the requirement is to appoint a local agent prior to commencing the programme of works; Applicants are asked to provide details of their local agent in the Application form. The Local agent should be a credible person with detailed knowledge of the activities of the Applicant in the Falkland Islands, engaged directly by the Applicant, and is able to quickly contact the Applicant to make decisions or has authority to address issues themselves.

3 Obligation to carry out work programme

- 3.1** The licensee must carry out expediently and with due diligence the programme of work agreed between the Director and the licensee as set out in the licence. The work programme may be varied in agreement with the Director.
- 3.2** It is important that the work programme agreed between the Applicant and DMR is carried out in the timeframes set out in that programme so that DMR can efficiently regulate the prospecting activity. However, DMR recognise that work programmes may need to be varied and will take a pragmatic approach in considering requests to vary the agreed work programme to reflect new data collected by the Applicant or changes in circumstances.

4 Conduct of Prospecting Work Programme

- 4.1** The licensee must execute the work programme authorised by the licence in a proper and workmanlike manner and in accordance with relevant industry good practice. All works, buildings, vehicles and other equipment used in connection with the work programme must be kept in good repair and condition.
- 4.2** The licensee must ensure the health, safety and welfare of —
- a) persons employed to carry out the work programme; and
 - b) the public.
- 4.3** The licensee must comply with any instructions given from time to time by the Director in relation to health and safety or environmental protection.
- 4.4** DMR recognise that prospecting is a relatively low risk, low impact activity, however it is important that the work programme is carried out safely and is well-managed. DMR will carry out inspections to verify that this condition is being complied with at a frequency which is proportionate to the activities being undertaken. It is anticipated that DMR will not normally give instructions under this condition except where it is apparent that there is evidence that health and safety and/or the environment is at risk from the activities of the Applicant. It is likely that DMR will require immediate reporting of any health and safety or environment related incidents.

5 Progress Reports

- 5.1** The licensee must submit updated plans, programmes of work, progress reports, technical reports and investigations to the Director as required.
- 5.2** The submission of progress reports by the Applicant will enable DMR to monitor progress against the agreed work programme. DMR will take a proportionate approach and will make it clear the frequency of and detail that is required in the progress reports taking account the nature, scope and impact of the activities being carried out.

6 Limitations on work

- 6.1** The licensee must not undertake works or take mineral samples except to the extent that it is reasonably necessary for the purpose of ascertaining the existence, character, extent or value of those minerals and must not sell or otherwise dispose of any mineral samples obtained except for the purpose of ascertaining their character and/or value.
- 6.2** The Licence is for prospecting only and therefore extraction of minerals for sale is not permitted under this licence except for the purpose of identification, assessment and valuation.

7 Records of Minerals Extracted

- 7.1** The licensee must keep records of the quantities of minerals extracted, sold or disposed of in a form as required by the Director. The records and supporting evidence must be available for inspection by the Director or a person duly authorised by the Director during normal office hours and copies must be provided if requested during the term of the licence and for a period of 12 months after the expiry of the licence unless otherwise agreed with the Director.
- 7.2** DMR require records to be kept so that it can verify the types and quantities of mineral extracted. DMR will take a proportionate approach to the information required taking account of the nature, scope and scale of the activities carried out by the Applicant. DMR will carry out inspections at a frequency which is proportionate to the activities undertaken, however if it has reason to believe that the condition is not being fully complied with it may carry out more frequent inspections without notice to the Applicant. Information must be supplied in a format that adheres to the FAIR data principals. DMR may publish this information subject to the condition 8 on confidentiality.

8 Findings on Minerals

- 8.1** The licensee must keep copies of all reports, interpretations, maps and other technical data obtained on all prospecting work and provide copies of all such documents to the Director within three months of them being prepared. In addition, the licensee must keep and submit to Director within three months all information obtained in relation to the existence, location, character, extent and value of all minerals in the land covered by the licence and the results of any analysis, test, trial or experiment carried out on the minerals.
- 8.2** It is important that DMR benefit from knowledge gained about the geology and presence or absence of minerals to contribute to the information it holds about minerals on the Falkland Islands. This information will be relevant to future licensing decisions for exploration and mining. Information must be supplied in a format that adheres to the FAIR data principals. DMR may publish this information subject to the condition 8 on confidentiality.

9 Confidentiality of Information

- 9.1** The Director will keep confidential all information provided by the licensee under conditions 7 and 8 above for a period of 5 years from receipt of the data or at the expiry of the licence whichever is the sooner, except as may be required under any legislation or order of the court or other competent authority, or to the extent that it is necessary to share the data with persons appointed to provide technical expertise to the Falkland Islands Government. After the period specified, the Director may make all of the information publicly available in whatever form and by such means as they think fit.
- 9.2** DMR recognise that the information collected under conditions 7 & 8 has an economic value to the Applicant. DMR respect confidentiality of this data as set out in the condition. Applicants should note that DMR will disclose information if required to do so by law or to experts that it may from time to time appoint to advise it. After 5 years all such data may be published by DMR as it thinks fit.

10 Director's Rights of Access

- 10.1** The licensee must allow any person duly authorised by the Director to enter and inspect the licensee's works, buildings, vehicles and other equipment, materials, records and extracted minerals at all reasonable times.
- 10.2** The right of access will be exercised reasonably and proportionately taking into account the nature scope and scale of the activities carried out. Normally inspections will be carried out on reasonable notice and in agreement with the Applicant, however inspections may be carried out without notice where DMR has reason to believe that a licence condition is not being fully complied with.

11 Indemnity

- 11.1** The licensee must at all times keep the Falkland Islands Government indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever and howsoever arising which may be brought by any third party by reason of any matter or thing done or purported to have been done by or on behalf of the licensee or any breach of licence condition.
- 11.2** No specific form of indemnity is required from the Applicant as this condition provides for a general indemnity from the Applicant.

12 Insurance

- 12.1** The licensee must have in place adequate levels of public liability insurance as determined by the Director, and such other insurances as may reasonably be required by the Director and provide evidence of those policies on request.
- 12.2** Applicants should submit their insurance proposals to DMR based on their proposed activities. DMR will review the proposed insurances and determine whether they are adequate or whether additional insurance cover is required. DMR will take a proportionate approach to determining whether additional insurance cover is required taking into account the perceived level of risk of the activities, the financial capacity of the Applicant and the cover proposed and available.

13 Environmental Impact

- 13.1** Before commencing activities under the work programme the licensee must carry out an assessment of the potential environmental impacts and have a management plan setting out the steps they will take to minimise, manage/remedy those impacts and submit these to the Director for approval. The licensee must carry out those steps and must report in line with the management plan.
- 13.2** The licensee must carry out the work programme in such manner that minimises harm to the environment and must report in line with the management plan.

- 13.3** The licensee must take such steps as are reasonably necessary to remediate any harm or adverse environmental impact caused in carrying out the work programme and must report to the Director in line with the management plan.
- 13.4** An assessment of the environmental impacts must be undertaken, in the first instance through a screening and scoping exercise which will determine whether any likely significant effects are anticipated.
- 13.5** In the preliminary stages of prospecting, the environmental impact is expected to be generally low be low dependent on the proposed work programme and the techniques utilised. The emphasis is placed on having a staged and proportionate approach, as prospecting will have less impact than exploration or extractive stages. The early stages focus on scoping work to identify whether any of the proposed work programme has the potential to give rise to significant wider environmental impacts.
- 13.6** The environmental assessment should be accompanied by a management plan which will set out how impacts will be managed, as well as clearly laying out how sites will be remediated or restored at the end of activities. The scale and type of operations and location will feed in to the screening/scoping stage to determine the proportionate environmental assessment and appropriate monitoring and management requirements.
- 13.7** The management plan should include information regarding the review process and FIG may direct additional reviews or consultation with stakeholders as is considered necessary in relation to the lifespan of activity or operations. FIG retains the ability to take action if activities are not undertaken as per the work programme, and if activities breach the agreed management plan.

14 Removal of equipment

- 14.1** The licensee must remove and properly dispose of all equipment, vehicles, buildings and waste materials, used, placed or erected on the licensed area in connection with carrying out the work programme before the date on which the licence expires.
- 14.2** DMR will inspect to ensure this condition is fully complied with. Applicants are advised to ensure they have arrangements in place before the licence expires to ensure that all equipment is properly disposed of.

15 Payment of fees

- 15.1** The licensee must pay to Director an annual licence fee as determined by the Director and published in the *Gazette* in respect of each licensed block area or any part of a block area if a part block is licensed. The fee is due annually at the commencement of each year starting from the date the licence is granted. The licensee must pay on or before the due date all fees, charges, taxes and other payments that are or may become payable in connection with the licence.

15.2 The annual licence fee and any other fees or charges connected to the licence must be paid at the commencement of the licence and before each anniversary. The annual licence fee is £100 per licence block or part licence block. Fees are payable for the duration of the licence. Applicants will be invoiced for the annual fees at least 30 days before they are due.

15.3 Please use the following details to make your payment;

Account Name: FALKLAND ISLANDS GOVERNMENT

Account Number: 15752368

Sort Code: 30-80-12

BIC: LOYDGB21F09

IBAN: GB39 LOYD 3080 1215 7523 68

Bank Address: PO Box 1000

Andover

BX1 1LT

Please ensure that all payments are accompanied with remittance advice/details of the payment to remittances@sec.gov.fk to ensure the correct allocation of the payment once received by FIG.

16 Statutory Compliance

16.1 The licensee must comply with the Mining Ordinance 2005 and all other applicable legal requirements and the requirements of the Director relating to the exercise of the rights granted by the licence.

16.2 Failure to comply with all statutory requirements could result in action being taken against the Applicant not only under the Mining Ordinance but also other relevant legislation. Applicants are recommended to obtain adequate legal advice to ensure they are aware of all the legal requirements that relate to their proposed activities.

17 Governing Law

17.1 The Law applying to this Licence is the law of the Falkland Islands.

17.2 Applicants should note that any disputes or action taken in relation to this licence will be subject to Falkland Islands law. Whilst much of Falkland Islands law is similar in many ways to the law of the UK applicants should note that the Falkland Islands has laws which are different and are recommended to seek legal advice on any matters that concern them.