What you need to know

There may be some situations where the coronavirus (COVID-19) pandemic has impacted the ability of mineral licence holders to fulfil the expenditure conditions of their licence. In these circumstances, licensees can make a request to Earth Resources Regulation for a variation to the expenditure condition.

Restrictions are in place in Victoria to slow the spread of coronavirus (COVID-19) and save lives. For the latest information visit the [Department of Health and Human Services website](https://www.dhhs.vic.gov.au/coronavirus-update-victoria-11-may-2020?gclid=EAIaIQobChMIsOm4vYHi6gIVkn0rCh0vTAyPEAAYASAAEgJfQ_D_BwE)

What’s new?

Earth Resources Regulation have previously encouraged requests for variations of licence conditions – particularly expenditure requirements – where licensees have been unable to meet conditions due to circumstances outside of their control, such as bushfire and flood impacts.

Licence holders can make a request to Earth Resources Regulation for a variation of licence conditions where coronavirus (COVID-19) impacts are the primary reason for the licensee anticipating they will not meet their conditions.

Licensees must continue to fulfil their obligations to protect members of the public, infrastructure and the environment at all times.

Who can request a variation?

This policy applies to any mineral licence under the Mineral Resources (Sustainable Development) Act 1990 (MRSDA) and to any holder of a mineral licence who can demonstrate that coronavirus (COVID-19) has had a direct impact on their ability to meet a specific condition.

Why should I request a variation?

Licensees can request a variation if they anticipate that coronavirus (COVID-19) impacts are likely to result in their inability to meet a condition.

Requests for variations to conditions should be made at least three months before the licence anniversary date, or otherwise as soon as possible. Variations to conditions cannot be made to operate retrospectively.

How do I make a request?

Earth Resources Regulation aims to make the request for coronavirus (COVID-19) relief as simple as possible, so we are providing more flexible evidence requirements for this purpose. These requirements only apply where coronavirus (COVID-19) impacts are the reason for the variation – all other requests must follow the usual licensing procedures.

Please provide:

* A covering letter / email requesting a variation of conditions
* A correctly executed Statutory Declaration[[1]](#footnote-2) detailing how coronavirus (COVID-19) has impacted on operations, such as site closures, inability to hire equipment or staff illness.
* Payment of the fee to vary a licence.[[2]](#footnote-3)

Earth Resources Regulation may contact the authority holder and request additional information or evidence, if necessary. Authority holders are encouraged to make their written request as detailed as necessary to show a clear connection between coronavirus (COVID-19) and the impact on their operations.

Each request will be assessed by Earth Resources Regulation on a case basis. Coronavirus (COVID-19) will not be relevant to issues of delayed performance pre-dating the pandemic.

What if I don’t request a variation of licence conditions and then fail to meet licence conditions?

Earth Resources Regulation may seek further information from licensees, including in association with any applications for a licence renewal, to clarify whether their operations have been impacted by coronavirus (COVID-19). Any relevant information will be considered on a case by case basis before determining whether any further action is required.

When does this policy apply?

Earth Resources Regulation will consider coronavirus (COVID-19) impacts from the start of Victoria’s State of Emergency on 16 March 2020.

This policy will be reviewed in June 2021 and may be withdrawn before that date if no longer needed or appropriate.

Any updates or changes to this policy will be published on the Earth Resources Regulation website at [earthresources.vic.gov.au](https://earthresources.vic.gov.au/)

For further details about current restrictions and the most up to date information about coronavirus (COVID-19) visit the [Department of Health and Human Services website](https://www.dhhs.vic.gov.au/coronavirus-update-victoria-11-may-2020?gclid=EAIaIQobChMIsOm4vYHi6gIVkn0rCh0vTAyPEAAYASAAEgJfQ_D_BwE)

For further information please contact the Earth Resources Regulation Licensing team in the first instance at licensing.err@ecodev.vic.gov.au

You can also subscribe to Earth Resources Regulation’s email newsletter by visiting [earthresources.vic.gov.au/about-us/newsletters](https://earthresources.vic.gov.au/about-us/newsletters)

1. Information on Statutory Declarations, including forms and policy on remote witnessing, is available at https://www.justice.vic.gov.au/statdecs [↑](#footnote-ref-2)
2. Under the MRSDA, Earth

   Resources Regulation is unable to

   waive this fee. [↑](#footnote-ref-3)