

Security for Costs of Appeals under Sections 86 and 282 of the *Mineral Resources Act 1989*

Practice Note 1 of 2020

H.M. Campbell

Principal Registrar
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INTRODUCTION

Introduction

1. Sections 86A(3) and 282A(3) of the MRA require the Registrar to decide a form and amount of security for the costs of appeals under sections 86 and 282. Appeals can only progress once the appellant has filed security for costs.
2. This Practice Note explains the procedure regarding security for costs of these appeals.

SUBMISSIONS

Submissions

3. When filing an appeal under section 86 or 282, the appellant must file and serve:
 - a. written submissions regarding security for costs; and
 - b. any supporting documentation regarding security for costs.
4. The appellant's submissions must total no more than 5, single-sided A4 pages and address:
 - a. the complexity of the case;
 - b. the effect of the case on the community and its interests;
 - c. the parties' estimated costs;
 - d. the appellant's ability to pay costs;
 - e. the form and amount of security; and
 - f. any other relevant matter.
5. Within 5 business days of receiving the notice of appeal, the respondent must file and serve:
 - a. written submissions in reply, totaling no more than 5, single-sided A4 pages and addressing the topics in [4]; and
 - b. any supporting documentation.

Determination and lodgment

6. The Registrar must decide the form and amount of the security within 10 business days after receiving the respondent's submissions or within 15 business days after the filing of the notice of appeal, whichever comes first.
7. The Registrar must issue written notice of the decision to the parties as soon as practicable.
8. The appellant must lodge the security within 15 business days after the Registrar issues the notice.
9. If the appellant does not lodge the security in the decided form within 15 business days after the Registrar issues their notice, the appeal lapses, and the Registry will close the file.

If the security expires before the finalisation of the appeal, the Registrar must write to the appellant to obtain a new security.

APPLYING AND RETURNING SECURITY

Applying and returning security

10. Once an appeal is finalised, the Registrar will apply or return the security.
11. The Registrar may apply the security to pay the respondent's reasonable costs if the Court has ordered the appellant to pay costs. The Registrar must then return the remainder of the security (if any) to the appellant.
12. The Registrar must return the security if:
 - a. the Court's orders do not require the appellant to pay any of the respondent's costs;
 - b. the Court has ordered the Registrar to return the security; or
 - c. the respondent consents to the security being returned.
13. The Registrar must keep records of applying or returning security on the Court's physical and digital files for the appeal.