

CLAIM FOR COMPENSATION IN TERMS OF MINERAL & PETROLEUM RESOURCES DEVELOPMENT ACT

INTRODUCTION

1. The purpose of this document is to provide guidelines to mineral right holders who were lawfully holders of a mineral title immediately prior to the coming into effect of the Mineral & Petroleum Resources Development Act ("the MPRD Act") on 1 May 2004 to institute a claim for compensation in terms of item 12 of the MPRD Act.
2. Item 12 provides that any person who can prove that his or her property (mineral right) has been expropriated in terms of any provision of the MPRD Act may claim compensation from the State. Judge Hartzenberg ruled in his judgment on 6 March 2009 that the MPRD Act admits that mineral right holders will be deprived of their rights and that such deprivation coupled with the State's assumption of custody and administration of those rights constitutes expropriation thereof. The Judge further ruled that it is possible for holders of old order rights to prove that their rights have been expropriated.
3. In order to claim compensation, a claim must be lodged with the Director General at the office of the Regional Manager of the Department of Minerals and Energy (now Mining) in whose region the expropriated property is situated.
4. **The claim must be lodged before the 30th April 2011.**
5. A claimant will be entitled to compensation for the loss of his mineral right through expropriation to a value equal to the market value of the mineral right expropriated as at 1 May 2004.

6. In order to submit a valid claim the following information must be contained in the written claim form. It is advised that the information below be submitted to a practicing attorney, specialising in mineral rights and a complete claim be drafted and lodged at the DME.

PART A: PARTICULARS OF CLAIMANT (The owner of the mineral right on 30 April 2004)

1. Surname: _____

2. Forename(s): _____

3. Identity number: _____

4. Attach Identity document and mark it "A"

or

5. Name of Company, Trust or other registered Entity: _____

6. Registration number of Company, Trust or other Entity: _____

7. Attach a copy of the Registration Certificate of Company or other registered Entity or Letter of Authority of the Trust and mark it "A"

PART B: DESCRIPTION OF THE EXPROPRIATED PROPERTY

1. Description of the Property (mineral right)

2. Proof of ownership of the expropriated Property. Attach a copy of the title deed and mark it "B".

3. Current use of the Property

4. History of the acquisition of the Property and the price paid for it (if bought)

5. The extent of any State assistance and benefits received in respect of the expropriated Property

6. The Region where the Property is situated

7. The nature of the mineral right (if known)

PART C: AMOUNT OF COMPENSATION CLAIMED

1. Amount of compensation claimed. Note: The amount of compensation claimed includes both the market value for the loss of the mineral right and actual financial loss suffered as a result of the expropriation

2. Nature and extent of actual loss and damage suffered by the Claimant

3. Market value of the Mineral Right

4. Manner in which the value was determined. Note: The Claimant must provide details of how the market value of the expropriated mineral right was determined, example: Purchase price

5. Attach a copy of the report from a sworn valuer or geologist and mark it "C", if available. In the absence of such a report, indicate how the market value referred to above was determined, for example the increase in purchase price if the Property would have been sold with the mineral right included (example: an offer to purchase the property with the mineral rights, compared to an offer to purchase the property without the mineral rights) or, where the mineral right has been separated from the land title, what a willing buyer would have been prepared to pay for the mineral right in the open market.

6. The continued benefit from the use of the Property

7. Rights which have been preserved or which can be acquired in terms of the provisions of the Act. Note: The MPRD Act provides that holders of mineral rights had the exclusive option to apply for a prospecting right or a mining right within a period of 1 year from the 1st of

May 2004. Indicate here whether the option was executed to apply for the prospecting or mining right and what the outcome of the application was.

PART D: NOTICE IN TERMS OF THE INSTITUTION OF LEGAL PROCEEDINGS AGAINST CERTAIN ORGANS OF THE STATE ACT.

In order to institute proceedings against the State a Claimant had to give notice to the State of its intention to institute proceedings within 6 months from the 1st May 2004. Indicate here whether you have given such notice to the State and attach the notice as "D".

PART E: GROUNDS UPON WHICH EXPROPRIATION IS ALLEGED

Set out the legal grounds upon which expropriation is alleged.

Signed at _____ on this _____ day of _____ 2010.

Claimant

Postal Address:

Tel: _____

Cell: _____

Fax: _____

E-mail: _____

NOTE: INDEMNITY

This document does not constitute legal advice. Each claim differs and must be determined on its unique facts and circumstances. In order to obtain legal advice with regard to a specific claim, and before any further action is taken with regard to information in this document, the claimant should personally consult with an attorney. MacRobert Incorporated or any of its employees shall not be responsible for any wrong information, errors or omissions or damages resulting from the use of this document.