

LAND COURT OF QUEENSLAND

PRACTICE DIRECTION 1 of 2011

Compensation payable by miner for grant/ renewal of mining tenures

1. This Practice Direction repeals and replaces Practice Direction 9 of 2009.
2. This Practice Direction applies to the determination of compensation by the Court under the *Mineral Resources Act 1989* (MRA), for example, sections 85, 279 and 281.
3. **Procedures**
 - a) Within twenty-eight (28) days after the date of the acknowledgement letter issued by the Land Court Registry, the applicant is to file in the Court and serve on the other party (the respondent) a compensation statement and any supporting affidavits or statutory declarations. A hearing statement is also to be filed.
 - b) Within twenty-eight (28) days after being served with that material, the respondent is to file in the Court and serve on the applicant a compensation statement (which should also identify any aspects of the applicant's compensation statement with which the respondent agrees or disagrees – and if the respondent disagrees, the reasons for any disagreement) and any supporting affidavits or statutory declarations. A hearing statement is also to be filed.
 - c) Within seven (7) days after being served with the respondent's material, the applicant is to file in the Court and serve on the respondent any material in reply to the respondent's material.
 - d) If either party desires further time to comply with these procedures, that party should immediately contact the Deputy Registrar who is to refer the request to the relevant Member.

4. Identification of Parties

The **applicant** is the party that applies for a determination of compensation. This would usually be the miner. Even if the matter is referred by the mining registrar, the applicant would be the miner. Therefore the landowner is usually the **respondent**, except when the landowner asks that the Land Court determine the compensation, in which case the landowner would be the applicant (see ss.85(5) or 281(1) MRA).

5. Compensation Statement

A "compensation statement" means a statement detailing the amount of compensation the party considers the Court should determine, having regard to, in the case of a mining claim, the criteria in section 85(7) and (8), and in the case of a mining lease the criteria in section 281(3) and (4) MRA.

The compensation statement should address **all** the criteria in the relevant provisions above, including:

- a) the total amount of compensation, showing:
 - i) sufficient information on how the sums are calculated;
 - ii) sufficient information about losses or expenses including management costs; and

- iii) sufficient evidence in support of each sum claimed, in particular valuation and economic evidence in support of those sums.
- b) Details of what the proposed mining area:
 - i) is currently used for;
 - ii) is otherwise capable of being used for.
- c) Details of the effect of the proposed mining or operations on the current or prospective use of the proposed mining area; and
- d) Any other material a party considers relevant.

6. **Hearing Statement**

A statement as to whether a party wishes the matter to be dealt with by the Land Court on the papers or by oral hearing must be forwarded to the Court with the compensation statement.

This is because, after all material has been provided to the Land Court by the parties, the Land Court will make its decision, either “on the papers” (which means on the material supplied with no additional input from the parties) or following an oral hearing, where parties have the opportunity to cross-examine the witnesses of the other party.

Parties are required to advise the Land Court in writing.

Carmel MacDonald
President
23 June 2011