

Security of tenure

In South Africa, the Minerals and Petroleum Resources Development Act, No 28 of 2002 (MPRDA) was implemented on 1 May 2004, and effectively transferred custodianship of the previously privately held mineral rights to the State. Mining companies were given up to two years to apply for prospecting permit conversions and five years to apply for mining licence conversions for existing operations. A prospecting right is a new order right that is valid for up to five years, with the possibility of a further extension of three years, which can be obtained either by the conversion of an existing old order prospecting permit or through a new application. A mining right is a new order right valid for up to 30 years and is obtained either by the conversion of an old order mining licence, as a new order right pursuant to the exercising of the exclusive right of the holder of a new order prospecting right or through a new mining right application.

Sishen Iron Ore Company (SIOC), the holding company of old order and new/converted prospecting rights, achieved its 26% black economic empowerment participation in accordance with the MPRDA when the empowerment deal brokered between Kumba Resources and Eyesizwe was finalised in November 2006. Kumba fully supports the objectives of the MPRDA and SIOC submitted applications to convert its old order mining licences and prospecting permits to new order rights in 2005. New applications for one mining right (Sishen South) and four prospecting rights (properties in the vicinity of Sishen Mine and Thabazimbi Mine) were also submitted since 2005.

SIOC's conversion applications for Sishen and Thabazimbi Mines were audited by independent external consultants prior to submission and declared compliant with the requirements of the act and other relevant regulations. The applications were accepted by the Department: Minerals and Energy (DME) and granted during the course of 2008. These two rights, currently valid until 30 April 2009, will be executed and registered in early 2009. The application for a new order mining rights for Sishen South was accepted in 2005 and granted by the DME in 2008. The right has been executed and implementation of the project has commenced in accordance with the project timeline to produce first saleable product in June 2011. The mining rights for Sishen, Thabazimbi and Sishen South will be valid for 30 years once they are registered.

Of the four applications for new order prospecting rights in place of unused old order rights, three new order prospecting rights near Sishen Mine have been granted for five years; the fourth near Assen is pending.

A new order prospecting right was granted for Zandriverspoort in November 2006 for five years. The Zandriverspoort right was issued to SIOC, 37% of which is attributable to Kumba because of a joint venture agreement with AMSA.

The new prospecting right application in the Sishen Mine area was granted and executed in November 2007. Applications for three new order prospecting rights in the Thabazimbi Mine area have been accepted by the DME but the status of these applications remains pending.

Closure was obtained for three old order prospecting rights in the vicinity of Thabazimbi Mine.

In accordance with the board decision to divest of Kromdraai, it was Kumba's intention to cede the old order prospecting right to Vergenoeg Exploration Company (VEC), and an agreement between the parties was thus concluded. The old order right has since lapsed without VEC being successful in their new order application for the right, rendering it necessary for Kumba to embark on closure procedures, which are currently in progress.