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DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 6210 **20 May 2025**

PUBLICATION OF THE DRAFT MINERAL RESOURCES DEVELOPMENT BILL, 2025 FOR PUBLIC COMMENT

I, **SAMSON GWEDE MANTASHE**, **MP**, Minister of Mineral and Petroleum Resources, hereby publish the draft Mineral Resources Development Bill, 2025 for public comment.

Interested and affected parties are invited to submit written representations on the draft Mineral Resources Development Bill, 2025. The aforesaid representations must be marked for the attention of **Ms Stella Mamogale** and hand-delivered, emailed, or sent by post on or before 13/08/**2025** to the following addresses:

70 Mentjies street	**or**	**Private Bag X59**
Sunnyside		**Arcadia**
0001		**0007**

Comments may also be sent via email to **Representations@dmre.gov.za**

Comments received after the closing date may not be considered.

A copy of the draft Mineral Resources Development Bill, 2025 is attached hereto.

MR SAMSON GWEDE MANTASHE
DEPARTMENT OF MINERAL AND PETROLEUM RESOURCES
DATE: 20/05/2025

REPUBLIC OF SOUTH AFRICA

CONFIDENTIAL

MINERAL RESOURCES DEVELOPMENT AMENDMENT BILL

(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill published in Government Gazette No. …. of……) (The English text is the official text of the Bill)

(MINISTER OF MINERAL AND PETROLEUM RESOURCES)

0

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Mineral and Petroleum Resources Development Act, 2002, so as to amend and insert new definitions; to provide for matters relating to small-scale and artisanal mining; to provide for the regulation of associated minerals, enhance provisions relating to the beneficiation of minerals or mineral products; to provide for consultation; to align the Act with domestic legislation; to provide for enhanced sanctions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows: —

Amendment of section 1 of Act 28 of 2002, as amended by section 1 of Act 49 of 2008

1. Section 1 of the Mineral and Petroleum Resources Development Act, 2002 (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the insertion before the definition of "beneficiation" of the following definitions:

" **'artisanal mining'** means traditional and customary mining operations using traditional or customary ways and means, which includes the activities of individuals using mostly rudimentary mining methods, manual and rudimentary tools to access mineral ore, usually available on surface, or at shallow depths;

'artisanal mining permit' means a permit issued in terms of section 27 A (6);

'associated mineral' means any mineral which occurs in mineralogical association, with and in the same core deposit as the primary mineral being mined in terms of a mining right, where it is physically impossible to mine the primary mineral without also mining the associated mineral;

'authorised person' means an authorised person contemplated in section 91;";

(b) by the substitution for the definition of "beneficiation" of the following definition:

" **'beneficiation' [in relation to any mineral resource,]** means the [following]—

[*(a)* primary stage, which includes any process of the winning, recovering, extracting, concentrating, refining, calcining, classifying, crushing, screening, washing, reduction, smelting or gasification thereof;

***(b)* secondary stage, which includes any action of converting a concentrate or mineral resource into an intermediate product;**

(c) tertiary stage, which includes any action of further converting that product into a refined product suitable for purchase by minerals-based industries and enterprises; and

(d) final stage, which is the action of producing properly processed, cut, polished or manufactured products or articles from minerals accepted in the industry and trade as fully and finally processed or manufactured and value added products or articles] transformation or value addition of a mineral or mineral product, or a combination of minerals, to a higher value product over baselines determined by the Minister, which can either be consumed locally or exported;";

(c) by the insertion after the definition of "beneficiation" of the following definition:

" **'black person'** has the meaning assigned to it in the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);";

(d) by deletion of the definition of "Board";

(e) by the substitution for the definition of "broad based economic empowerment" of the following definition:

" **'broad based economic empowerment' [means a social or economic strategy, plan, principle, approach or act which is aimed at —**

(a) redressing the results of past or present discrimination based on race, gender or other disability of historically disadvantaged persons in the minerals and petroleum industry, related industries and in the value chain of such 15 industries; and

(b) **transforming such industries so as to assist in, provide for, initiate or facilitate-**

(i) the ownership, participation in or the benefiting from existing or future mining, prospecting, exploration or production operations;

(ii) the participation in or control of management of such operations;

(iii) the development of management, scientific, engineering or other skills of historically disadvantaged persons;

(iv) the involvement of or participation in the procurement chains of operations;

(v) the ownership of and participation in the beneficiation of the proceeds of the operations or other upstream or downstream value chains in such industries;

(vi) the socio-economic development of communities immediately hosting, affected by the of supplying labour to the operations; and

(vii) the socio-economic development of all historically disadvantaged South Africans from the proceeds or activities of such operations;] has the meaning assigned to it in the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);";

(f) by the insertion after the definition of "Chief Inspector" of the following definition:

" **'Committee'** means the Regional Mining Development and Environmental Committee, established by section 10(c) ;";

(f) by the substitution for the definition of ''community'' of the following definition:

"'**community'** means **[a group of historically disadvantaged persons with interest or rights in a particular area of land on which the members have or exercise communal rights in terms of an agreement, custom or law: Provided that, where as a consequence of the provisions of this act, negotiations or consultations with the community is required, the community shall include the members or part of the community directly affect by mining on land occupied by such members or part of the community]** a coherent, social group of persons within a metropolitan municipality or a district municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), with interests or rights in a particular area of land which the members have or exercise communally in terms of an agreement, custom or law;";

(g) by deletion of the definition of "contractual royalties";

(h) by the insertion after the definition of "community" of the following definitions:

" **'Constitution'** means the Constitution of the Republic of South Africa, 1996;

'council' means the Ministerial Advisory Council that may be established in terms of section 56A;";

'controlling interest', in relation to—

(a) a company, means the majority of the voting rights attaching to all classes of shares in the company;

(b) any other business other than a company referred to in paragraph *(a)*, means any interest which enables the holder thereof to

exercise, directly or indirectly, any control whatsoever over the activities or assets of the business;'';

(i) by the substitution for the definition of ''Department'' of the following definition:

'' **'Department'** means the Department **[of Mineral Resources and Energy]** responsible for mining;'';

(j) by the substitution of the definition "effective date" of the following definition:

" **'effective date'** means the date on which the **[relevant]** permit is issued or right is **[executed]** granted by the Minister;";

(k) by the deletion of the definition of "designated agency";

(l) by the deletion of the definition of "development programme";

(m) by the substitution for the definition of "employee" of the following definition:

" **'employee'** means any person who works for the holder of a reconnaissance permission, prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit**[,]** or retention permit, **[technical corporation permit, reconnaissance permit, exploration right and production right,]** and who is entitled to receive any remuneration, and includes any employee working at or in a mine, including any person working for an independent contractor;";

(n) by the substitution for the definition of "exclusionary act" of the following definition:

" **'exclusionary act'** means any act or practice which impedes or prevents any person from entering into or actively participating in the mineral **[and petroleum]** industry, or entering into or actively participating in any market

connected with the mineral **[and petroleum industries]** industry, or from making progress within such industry or market;";

(o) by the insertion after the definition of "exclusionary act" of the following definition:

"'**execution date'** means the date of the signing of the right by the Minister and holder in the presence of the notary public;";

(o) by the deletion of the definition of "exploration area";

(p) by the deletion of the definition of "exploration operation";

(q) by the deletion of the definition of "exploration right";

(r) by the deletion of the definition of "exploration work programme"

(s) by the insertion after the definition of ''exploration work programme'' of the following definition:

" **'gasification'** means a process applied to non-mined coal seams, using injection drilled from the surface, which enables the coal to be converted from original state into gas;'';

(t) by the deletion of the definition of ''historically disadvantaged person'';

(u) by the insertion after the definition of ''historically disadvantaged person'' of the following definition:

'' **'historic residue stockpiles'** means any debris, discard, tailings, slimes, screening, slurry, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to a mining operation and which is or was stockpiled, stored or accumulated for potential re-use, or which is or was disposed of, by the holder of any right or title (including common law ownership) other than a prospecting right,

mining right, small-scale mining permit, and artisanal mining permit issued in terms of this Act;'';

(v) by the substitution for the definition of "holder" of the following definition:

" **'holder'** in relation to a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit, retention permit or reconnaissance permission **[, exploration right, production right, reconnaissance permit or technical cooperation permit]**, means the person to whom such right or permit has been granted or such person's successor in title;";

(w) by insertion after the definition of ''holder'' of the following definitions:

'' **'interested and affected persons'** means a natural or juristic person or an association of persons with a direct interest in the proposed or existing prospecting or mining operation or who may be affected by the proposed or existing prospecting or mining operation;

'labour sending areas' refers to areas within the Republic of South Africa where the majority of mineworkers, both historical and current, were sourced;'';

(x) by the substitution for the definition of ''land'' of the following definition:

'' **'land'** includes the surface of the land and the sea, as well as residue deposits and residue stock piles on such land, where appropriate;'';

(y) by the insertion after the definition of ''land'' of the following definitions:

'' **',land owner'** means a natural or juristic person, or a community, who holds a right in land, registered or unregistered, over which such person or community enjoys protection under any law;

'listed company' means a 'listed company' as defined by the Income Tax Act, 1962 (Act No. 58 of 1962);

'meaningful consultation' means that the applicant, has in good faith facilitated participation in such a manner that reasonable opportunity was given to provide comment by the landowner, lawful occupier or interested and affected person in respect of land subject to an application about the impact the prospecting or mining activities would have to his or her right of use of the land by availing all relevant information pertaining to the proposed activities enabling these parties to make an informed decision regarding the impact of the proposed activities;";

(z) by the substitution for the definition of "mine" of the following definition:

" **'mine'** means, when—

(a) used as a noun—

(i) any excavation in the earth, including any portion under the sea or under other water or in any residue deposit or residue stockpile, as well as any borehole, whether being worked or not, made for the purpose of searching for or winning a mineral;

(ii) any other place where a mineral resource is being extracted, including the mining area and all buildings, structures, machinery, residue deposit or residue stockpiles, access roads or objects situated on such area and which are used or intended to be used in connection with such searching,

winning or extraction or processing of such mineral resource; and

(b) used as a verb, **[in]** the mining of any mineral, in or under the earth, water or any residue deposit, whether by underground **[or]** gasification, open working or otherwise and includes any operation or activity incidental thereto, in, on or under the relevant mining area;";

(zA) by the substitution for the definition of "mineral" of the following definition

" **'minerals'** means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or in or under water and which was formed by or subjected to a geological process, and includes sand, stone, rock, gravel, clay, soil and any mineral occurring in residue stockpiles or in residue deposits, but excludes**[—**

***(a)*]** water, other than water taken from land or sea for the extraction of any mineral from such water;

[*(b)* petroleum; or

(c) **peat;]**";

(zB) by the substitution for the definition of "mining area" of the following definition:

" **'mining area'**—

(a) in relation to a mining right **[or a mining permit]** small-scale mining permit or artisanal mining permit, means the area **[on which the extraction of any mineral has been authorised and]** for which that right is granted or permit is **[granted]** issued;

(b) in relation to any environmental, health and safety, social and labour matter and any residual, latent or other impact thereto, **[including]** includes—

(i) any **[land or]** surface of land within, adjacent or non-adjacent to the area as contemplated in **[subsection (i)]** paragraph *(a)*, but upon which related or incidental operations are being undertaken and impacting on the environment;

(ii) any surface of land on which such **[road, railway line, powerline, pipeline, cableway or conveyor belt]** mining infrastructure is located, under the control of the holder of such mining right, **[or mining permit]** small-scale mining permit or artisanal mining permit and which such holder is entitled to use in connection with the operations performed or to be performed under such right or permit; and

(iii) all buildings, structures, machinery, residue deposit or other stockpiles, or objects situated on or in the area as contemplated in **[subsections (ii)*(a)* and (ii)*(b)*]** subparagraphs (i) and (ii)**[.]**;'';

(zC) by the substitution for the definition of ''mining operation'' of the following definition:

'' **'mining operation'** means any operation relating to the act of mining and matters directly incidental thereto, including residue stock piles and deposit;'';

(zD) by the substitution for the definition of "mining permit" of the following definition:

" **'small-scale mining permit'** means a permit issued in terms of section 27(6);

(zE) by the substitution for the definition of ''Minister'' of the following definition:

'' '**Minister**' means the Minister **[of Mineral Resources and Energy]** responsible for Mining;'';

(zF) by the insertion after the definition of ''officer'' of the following definition:

'' **'organ of state'** has the meaning assigned to it in section 239 of the Constitution;'';

(zG) by the insertion after the definition of "prescribed" of the following definition:

" **'Principal Inspector of Mines'** " has the meaning assigned to it in the Mine Health and Safety Act,1996 (Act No.29 of 1996);";

(zH) by the substitution for the definition of ''prospecting area'' of the following definition:

'' **'prospecting area' [means the area of land which is the subject of any prospecting right]**—

(a) in relation to a mining right, small-scale mining permit or artisanal mining permit, means the area for which that right or permit is granted; or

(b) in relation to any environmental, health and safety, social and labour matter and any residual, latent or other impact thereto, includes any land or surface within, adjacent or non-adjacent to the area as contemplated in paragraph *(a)*, but upon which related or

incidental operations are being undertaken and impacting on the environment;'';

(zI) by the insertion after the definition of ''prospecting work programme'' of the following definition:

'' **'public entity'** means a 'public entity' as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);'';

(zJ) by the substitution for the definition of ''Regional Mining Development and Environment Committee'' of the following definition:

'' **'Regional Mining Development and Environmental Committee'** means a Regional Mining Development and Environmental Committee established in terms of section **[64(1)]** 10A;'';

(zK) by the substitution for the definition of ''residue deposit'' of the following definition:

'' **'residue deposit'** means any residue stockpile remaining at the termination, cancellation or expiry of a prospecting right, mining right, **[mining permit, exploration right, production right]** small-scale mining permit, artisanal mining permit or an old order right;";

(zL) by the substitution for the definition of ''residue stockpile'' of the following definition:

'' **'residue stockpile'** means any debris, discard, tailings, slimes, screening, slurry, waste rock, foundry sand, **[beneficiation]** mineral processing plant waste, ash or any other product derived from or incidental to a mining operation and which is stockpiled, stored or accumulated within the mining area for potential re-use, or which is

disposed of, by the holder of a mining right, **[mining permit]** small-scale mining permit, artisanal mining permit , **[or, production right]** or an old order right, including historic mines and dumps created before the implementation of this Act;'';

(zM) by the insertion after the definition of ''retention permit'' of the following definition:

'' **'security of supply'** means the orderly supply of designated minerals or mineral products for local beneficiation in order to support and sustain national development imperatives;";

(zN) by the substitution for the definition of ''the sea'' of the following definition:

'' **'the sea' [means the water of the sea, as well as the bed of the sea and the subsoil thereof below the low-water mark as defined in the Seashore Act, 1935 (Act No. 21 of 1935), and within—**

(a) **the territorial waters as contemplated in section 4 of the Maritime Zone Act, 1994 (Act No. 15 of 1994), of the Republic, including the water and the bed of any tidal river and of any tidal lagoon;**

(b) **the exclusive economic zone as contemplated in section 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994); and**

(c) **the continental shelf as contemplated in section 8 of the Maritime Zones Act, 1994 (Act No. 15 of 1994]** has the meaning assigned to it by the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008), and includes the territorial waters, the exclusive economic zone and

the continental shelf as contemplated in the Maritime Zones Act,1994 (Act No.15 of 1994);''; and

(zO) by the substitution for the definition of ''this Act'' of the following definition:

'' **'this Act'** includes—

(a) the regulations and any term or condition to which any permit, permission, **[licence]** right, consent, exemption, approval, notice, closure certificate**[, environmental management plan, environmental management programme]** or directive issued, given, granted or approved in terms of this Act **[, is subject]**; and

(b) the Codes of Good Practice for the South African Minerals Industry and Housing and Living Conditions Standards for the Minerals Industry;''.

Amendment of section 2 of Act 28 of 2002, as amended by section 2 of Act 49 of 2008

2. The following section is hereby substituted for section 2 of the principal Act

"**Objects of Act.**

2. The objects of the Act are to—

(a) recognise the internationally accepted right of the State to exercise sovereignty over all the mineral **[and petroleum]** resources within the Republic;

(b) give effect to the principle of the State's custodianship of the nation's mineral **[and petroleum]** resources;

(c) promote equitable access to the nation's mineral **[and petroleum]** resources to all the people of South Africa;

(d) substantially and meaningfully expand opportunities for historically disadvantaged persons, including women and communities, to enter into and actively participate in the mineral **[and petroleum]** industries and to benefit from **[the exploitation of]** the nation's mineral **[and petroleum]** resources;

(e) promote optimal economic growth and mineral **[and petroleum]** resources development in the Republic**[, particularly development of downstream industries through provision of feedstock, and development of mining and petroleum inputs industries]**;

(f) promote employment and advance the social and economic welfare of all South Africans;

(g) provide for security of tenure in respect of prospecting, **[exploration,]** and mining **[and production]** operations;

(h) give effect to section 24 of the Constitution by ensuring that the nation's mineral **[and petroleum]** resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development; and

(i) ensure that holders of mining **[and production]** rights contribute towards the socio-economic development through the implementation of social and

labour plans **[of]** in **[the]** areas **[in]** which they are operating, including labour sending areas;''.

Amendment of section 3 of Act 28 of 2002, as amended by Act 49 of 2008

(a) by the substitution for the heading of the following heading:

"**Custodianship of nation's mineral [and petroleum] resources**

(b) by the substitution for subsection (1) of the following subsection:

"(1) Mineral **[and petroleum]** resources are the common heritage of all the people of South Africa and the State is the custodian thereof for the benefit of all South Africans.";

(c) by the substitution for subsection (2) of the following subsection:

"(2) As the custodian of the nation's mineral **[and petroleum]** resources, the State, acting through the Minister, may—

(a) grant, issue, refuse, control, administer and manage any reconnaissance permission, prospecting right, permission to remove, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit **[,]** and retention permit. **[, technical co-operation permit, reconnaissance permit, exploration right and production right; and]**";.

(d) by the substitution of subsection 3 of the following subsection:

"(3) The Minister must ensure the sustainable development of South Africa's mineral **[and petroleum]** resources within a framework of national environmental

legislation, policy, norms and standards while promoting economic and social development.".

Amendment of section 5 of Act 28 of 2002, as amended by section 5 of Act 49 of 2008

(a) by the substitution for the heading of the following heading:

Legal nature of prospecting right, mining right, **[exploration right or production right],** and rights of holders thereof".;

(b) by the substitution of subsection (1) of the following subsection:

" (1) A prospecting right**[,]** or mining right, **[exploration right or production right]** granted in terms of this Act and registered in terms of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967), is a limited real right in respect of the mineral **[or petroleum]** and the land to which such right relates.;

(c) by the substitution of subsection (2) of the following subsection:

"(2) The holder of a prospecting right**[,]** and mining right**[, exploration right or production right]** is entitled to the rights referred to in this section and such other rights as may be granted to, acquired by or conferred upon such holder under this Act or any other law.";

(d) by the substitution of subsection 3 of the following subsection:

" (3) Subject to this Act, any holder of a prospecting right**[,]** and a mining right**[, exploration right or production Right]** may—

(a) enter the land to which such right relates together with his or her employees, and bring onto that land any plant, machinery or

equipment and build, construct or lay down any surface, underground or under sea infrastructure which may be required for the purpose of prospecting**[,]** and mining, **[exploration or production,]** as the case may be;

(b) prospect**[,]** or mine, **[explore or produce,]** as the case may be, for his or her own account on or under that land for the mineral **[or petroleum]** for which such right has been granted;";

(c) remove and dispose of any such mineral found during the course of prospecting**[,]** or mining, **[exploration or production,]** as the case may be;

(d) subject to the National Water Act, 1998 (Act No. 36 of 1998), use water from any natural spring, lake, river or stream, situated on, or flowing through, such land or from any excavation previously made and used for prospecting[,] or mining, **[exploration or production purposes,]** or sink a well or borehole required for use relating to prospecting**[,]** or mining**[, exploration or production]** on such land; and

(e) carry out any other activity incidental to prospecting**[,]** or mining, **[exploration or production]** operations, which activity does not contravene the provisions of this Act or any other law.

Amendment of section 5A of Act 28 of 2002, as inserted by section 5 of Act 49 of 2008

5. Section 5A of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Illegal prospecting and mining activities**";

(b) by the substitution for the words preceding paragraph *(a)* of the following words:

"No person may prospect for or remove, mine, conduct **[technical co-operation operations,]** reconnaissance operations, **[explore for and]** produce any mineral **[or petroleum]** or commence with any work incidental thereto on any area without—";

(b) by the substitution for paragraph (a) of the following paragraph:

"*(a)* an environmental authorisation in terms of National Environmental Management Act,1998 (Act No.107 of 1998) as amended;".

(c) by the substitution for paragraph *(b)* of the following paragraph:

"*(b)* a reconnaissance permission, prospecting right, permission to remove, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit **[,]** or retention permit, **[technical co-operation permit, reconnaissance permit, exploration right or production right,]** as the case may be;".

Insertion of section 5B and 5C in Act 28 of 2002

6. The following sections are hereby inserted after section 5A of the principal Act:

"**Prohibition relating to assistance in committing illegal prospecting and mining activities**

5B. No person may assist or provide any service to any person, directly or indirectly, to enable or aid that person in committing an illegal prospecting and mining activity as contemplated in section 5A.

Prohibition relating to possession and transportation of minerals

5C. No person may possess or transport in any manner minerals outside the boundaries of any mine, works or other property or place where such mineral is mined, or worked with, unless he or she is possession of the prescribed documentation.".

Substitution of section 7 of Act 28 of 2002

7. The following section is hereby substituted for section 7 of the principal Act:

"**Division of Republic, territorial waters, continental shelf and exclusive economic zone into regions.**

For the purposes of this Act, the Minister must, by notice in the *Gazette*, divide the Republic, including the sea, **[as defined in section 1 of the Sea-shore Act, 1935 (Act No. 21 of 1935), and the exclusive economic zone and continental shelf referred to in sections 7 and 8 respectively, of the Maritime Zones Act, 1994 (Act No. 15 of 1994),]** into regions in terms of applicable legislation.".

Insertion of section 7A in Act 28 of 2002

8.The following section is hereby inserted in the principal Act after section 7.

"**Designation of certain areas for small-scale and artisanal mining**

7A. In order to give effect to the objects referred to in section 2*(c)* and *(d)*, the Minister may, by notice in the *Gazette*—

(a) after consultation with the Council for Geoscience, designate certain areas for black persons for small-scale and artisanal mining; and

(b) invite applications for small-scale and artisanal mining as contemplated in section 9A.".

Amendment of section 9 of Act 28 of 2002, as amended by section 6 of Act 49 of 2008

9. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) **[If the Regional manager]** The minister must not accept **[receives more than one]** applications for a prospecting right, a mining right, **[or a mining permit]** a small-scale mining permit or artisanal mining permit, as the case may be, **[in respect of the same mineral and land, applications received on—**

(a) **the same day must be regarded as having been received at the same time and must be dealt with in accordance with subsection (2);**

(b) **different days must be dealt with in order of receipt.]** where there is an existing application, right or permit.".

Insertion of section 9A in Act 28 of 2002

10. The following section is hereby inserted in the principal Act after section 9:

"**Invitation for applications**

9A. (1) The Minister must, in the form and manner prescribed, by notice in the *Gazette*, invite applications—

(a) in respect of land or minerals relinquished or abandoned or which was previously subject to any right, permit or permission in terms of this Act, which has been cancelled or relinquished or which has been abandoned, or which has lapsed for reconnaissance permissions, prospecting rights, mining rights, small-scale mining permits and artisanal mining permits in respect of any area of land, and may prescribe in such notice the period within which any application may be lodged with the Minister and the procedures which must apply in respect of such lodgement;

(b) in consultation with the Council for Geoscience and the relevant national department in a designated area as contemplated in section 7A, for small-scale and artisanal mining;

(2) Applications received in terms of subsection (1) must be processed in accordance with the provisions of the Act, including the terms and conditions upon which applications may be accepted, rejected, granted or refused.''.

Substitution of section 10 of Act 28 of 2002, as amended by section 7 of Act 49 of 2008

11. Section 10 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

''**Meaningful consultation with interested and affected [parties] persons**";

(b) by the substitution for subsection (1) of the following subsection:

"(1) Within **[14]** seven days after accepting an application lodged in terms of section 16, 22 or 27, the **[Regional manager]** Minister and the applicant must, in the prescribed manner—

(a) make known that an application for a prospecting right, mining right, **[or mining permit]** small-scale mining permit or artisanal mining permit has been accepted in respect of the land in question; and

(b) call upon interested and affected person to submit their comments and objections regarding the application within 30 days from the date of the notice to the **[Regional manager**] Minister.''; and

(c) by the substitution for subsection (2) of the following subsection:

"(2) If a person or community objects to the granting of a prospecting right, mining right or **[mining permit]** small-scale mining permit or artisanal mining permit, the **[Regional manager]** Minister must refer the objection

to the Regional Mining Development and Environmental Committee to **[consider]** adjudicate on the objections and to advise the Minister thereon.".

Insertion of sections 10A, 10B, 10C, 10D, 10E, 10F and 10G in Act 28 of 2002

12. The following sections are hereby inserted in the principal Act after section 10:

"**Establishment of Regional Mining Development and Environmental Committee**

10A. The Regional Mining Development and Environmental Committee is hereby established for each region contemplated in section 7 of the Act.

Functions of Regional Mining Development and Environmental Committee

10B. The committee must—

(a) adjudicate on objections received in terms of section 10(2); and

(b) make recommendations to the Minister in terms of section 54(5).

Composition of Regional Mining Development and Environmental Committee

10C.(1) The Regional Mining Development and Environmental Committee must consist of not more than 14 members appointed by the Minister and must include—

(a) the Regional manager as the chairperson;

(b) the Principal Inspector of Mines for that region; a

(c) representatives officials from relevant national departments or relevant organs of state within the national, provincial and local sphere of government.

(2) The members appointed to the Regional Mining Development and Environmental Committee must have expertise in mineral and mining development and mine environmental management.

(3) The Minister may appoint a representative from any relevant public entity from time to time: Provided that such representative shall not have a right to vote at any meeting of the committee.

Disqualification of members

10D. A person may not be appointed as a member of the Regional Mining Development and Environmental Committee—

(a) unless he or she is a South African citizen who resides in the Republic permanently; or

(b) if he or she is an unrehabilitated insolvent, has been declared to be of unsound mind by a court of the Republic or has been convicted of an offence committed after the date of commencement of the Constitution,

and sentenced to imprisonment without the option of a fine, unless the person has received a grant of amnesty or a free pardon before the date of his or her appointment.

Vacation of office

10E. (1) A member of the committee must vacate his or her office if he or she—

(a) becomes subject to any disqualification contemplated in section 10D, or in the case of an official in the service of the State, ceases to be such an official;

(b) has been absent for more than two consecutive meetings of the committee without leave.

(c) tenders his or her resignation in writing to the Minister and the Minister accepts the resignation; or

(d) is removed from the office by the Minister under subsection (2).

(2) The Minister may remove any member of the committee from office—

(a) on account of misconduct or inability to perform functions of his or her office properly; or

(b) if the member has engaged in any activity that may undermine the integrity of the committee, which activities may include—

(i) participation in an investigation, hearing or decision concerning a matter in respect of which that person has a financial or personal interest;

(ii) making private use of, or profiting from, any confidential information obtained as a result of performing his or her functions as a member of the committee; or

(iii) divulging any information referred to in subparagraph (ii) to any third party, except as required by or under this Act or the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Term of office and filling of vacancies

10F. (1) A member of the committee holds office for a period not exceeding three years.

(2) The Minister may reappoint any member of the committee at the expiry of his or her term for another period not exceeding three years.

(3) If a member of the committee vacates the office or dies, the Minister may fill the vacancy by appointing a person in accordance with section 10C(3) for the unexpired period of the term of office of his or her predecessor.

Reporting by Regional Mining Development and Environmental Committee

10G. In addition to any specific report which the Minister may request from the committee in respect of any of the regions, the committee must before 31 March of each year submit a report to the Minister setting out the activities of the committee during the year preceding that date and must include a business plan for the ensuing year.''.

Amendment of section 11 of Act 28 of 2002, as amended by section 8 of Act 49 of 2008

13. Section 11 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A prospecting right **[or]** mining right, or an interest in any such right, or any interest in **[a close corporation or]** an unlisted company or any controlling interest in a listed company (**which corporations** or companies , which holds a prospecting right, **[or]** mining right, small-scale mining permit or artisanal mining permit or an interest in any such right), may not be ceded, transferred, encumbered, let, sublet, assigned or alienated **[or otherwise disposed of]** without the prior written consent of the Minister, as prescribed.";"

(b) by the addition of the following subsection:

"(5) Any cession, transfer, letting, subletting, assignment, alienation or disposal of prospecting or mining right or an interest in a corporation or company made in contravention of subsection 1 is void.".

(c) by the substitution for subsection (3) of the following subsection:

"(3) The consent contemplated in subsection (1) is not required in respect of the encumbrance by mortgage contemplated in subsection (1) of a right or interest as security to obtain a loan or guarantee for the purpose of funding or financing a prospecting or mining project by—

(a) any bank, as defined in the Banks Act, 1990 (Act No. 94 of 1990); **[or]**

(b) any other financial institution approved for that purpose by the Registrar of Banks referred to in the Banks Act, 1990 (Act No. 94 of 1990), on request by the Minister**[,]**; or

[, if the bank or financial institution in question undertakes in writing that any sale in execution or any other disposal pursuant to foreclosure of the mortgage will be subject to the consent in terms of subsection (1).]

(c) any public entity, if the bank, public entity or financial institution in question undertakes, in writing, that any sale in execution or any other disposal pursuant to foreclosure of the mortgage is subject to the consent in terms of subsection (1).";

(c) by the substitution for subsection (4) of the following subsection:

"(4) Any transfer, cession, letting, subletting, alienation, encumbrance by mortgage or variation of a prospecting right or mining right, as the case may be, contemplated in this section, must be lodged for **[the]** registration at the Mineral and Petroleum Titles Registration Office within **[60]** 7 days from the execution date **[of the relevant transaction]**".

Amendment of section 13 of Act 28 of 2002, as amended by section 9 of Act 49 of 2008

14. By the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* no person holds a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit or retention permit for the same mineral and land.".

Amendment of section 15 of Act 28 of 2002, as amended by section 11 of Act 49 of 2008

15. By the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* any exclusive right to apply for or be granted a prospecting right, mining right, **[or mining permit]** small-scale mining permit or artisanal mining permit in respect of the land to which such reconnaissance permission relates.".

Amendment of section 16 of Act 28 of 2002, as amended by section 12 of Act 49 of 2008

16. Section 16 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

(1) Any person who wishes to apply to the Minister for a prospecting right **[must simultaneously apply for an environmental authorisation and]** must lodge the application-

(b)by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* **[at the office of the Reginal manager in whose region the land is situated]** on the designated application system;";

(b) by the substitution for subsection (2) of the following subsection:

"(2) **[The Regional manager must accept an]** An application for a prospecting right must be accepted if—

(a) the requirements contemplated in subsection (1) are met;

(b) no other person holds a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit or retention permit for the same mineral and land; and

(c) no prior application for a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit or retention permit has been accepted for the same mineral on the same land and which remains to be granted or refused."; and

(c) by the substitution for subsection (4) of the following subsection:

"(4) If **[the Regional manager accepts]** the application has been accepted, **[the Regional manager]** the applicant must **[, within 14 days from the date of acceptance, notify the applicant in writing]** be notified, in writing, within 14 days—

(a) to **[submit relevant environmental reports required in terms of Chapter 5]** apply for Environmental Authorisation in terms of the National Environmental Management Act, 1998, within **[60]** 14 days **[of]** from the date of the notice; **[and]**

(b) to consult in the prescribed manner with the landowner, lawful occupier, **[and any]** interested and affected **[party]** persons and **[include]** submit the result of the consultation **[in the relevant environmental reports]** within 30 days from the date of the notice and

(c) to apply, where necessary, for a licence for use of water in terms of the applicable legislation.".

(d) by the substitution for subsection (5) of the following subsection:

"(5) Upon receipt of the application and information referred to in subsection (4)(a) and (b), the Regional Manager must forward the application to the Minister for consideration.

Amendment of section 17 of Act 28 of 2002, as amended by section 13 of Act 49 of 2008

17. Section 17 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(c)* of the following paragraph:

"*(c)* the prospecting will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation in terms of National Environmental Management Act,1998 as amended **[is]** has been issued;";

(b) by the substitution in subsection (1) for paragraph *(d)* of the following paragraph:

"*(d)* the applicant has the ability to comply with the relevant provisions of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996); **[and]**";

(c) by the substitution in subsection (1) for paragraph *(e)* of the following paragraph:

"*(e)* the applicant is not in contravention of any **[relevant]** provision of this Act**[.]**;";

(d) by the substitution in subsection (1) for paragraph *(f)* of the following paragraph:

"*(f)* **[in respect of prescribed minerals the applicant has given effect to the objectives referred to in section 2*(d)*]** the granting of such right will further the objectives referred to in section 2*(d)* and comply with the broad-based socio-economic empowerment prescribed elements as contemplated in section 100(3)*(b)*; and"; and

(e) by the addition in subsection (1) after paragraph *(f)* of the following paragraph:

"*(g)* the applicant has, where necessary, submitted proof of application for a licence for use of water in terms of the applicable legislation.";

(f) by the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* the granting of such right will result in the concentration of the mineral resources in question under the control of the applicant and their associated companies with the possible limitation of equitable access to mineral resources**[.]**; and";

(g) by the addition in subsection (2) after paragraph *(b)* of the following paragraph:

"*(c)* the applicant submitted inaccurate, incorrect or misleading information in support of the application or any matter required to be submitted in terms of this Act."; and

(h) by the substitution for subsection (5) of the following subsection:

"(5) A **[prospecting]** right granted in terms of subsection (1) comes into effect on the effective date."; and

(i) by the insertion after subsection (5) of the following subsection:

"(5A) Where an appeal against the granting of the right has been lodged within the prescribed period, the notarial deed of granting may not be executed until such appeal is finalised.".

Amendment of section 18 of Act 28 of 2002, as amended by section 14 of Act 49 of 2008

18. Section 18 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph *(c)* of the following paragraph:

"*(c)* be accompanied by a report reflecting the **[extent of]** holder's compliance with the conditions of the environmental authorisation; **[and"]**";

(b) by the insertion in subsection (2) after paragraph *(c)* of the following paragraph:

"*(c*A) where necessary, include proof of application in terms of National Environmental Management Act, 1998 (Act No.107 of 1998) for an amended environmental authorisation; and";

(c) by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

"*(a)* terms and conditions of the prospecting right and is not in contravention of **[any relevant provision of]** this Act;";

(d) by the substitution in subsection (3) for paragraph *(c)* of the following paragraph:

"*(c)* compliance with the conditions of the environmental authorisation issued in terms of National Environmental Management Act, 1989(Act No.107 of 1998); and";

(e) by the addition in subsection (3) after paragraph *(c)* of the following paragraph:

"*(d)* the approved amended environmental authorisation, where necessary, .";

(f) by the substitution for subsection (5) of the following subsection:

"(5)*(a)* A prospecting right in respect of which an application for renewal has been lodged shall, despite its stated expiry date, remain in force until such time as such application has been granted or such application has been refused.

(b) Whilst the prospecting right remains in force, the holder of such right is entitled to continue to conduct prospecting operations in terms of the existing prospecting work programme.

(c) Where an application for renewal is granted, the renewal will take effect and the renewal period for which the application was granted, commences on the date of execution."; and

(g) by the addition after subsection (5) of the following subsection:

"(6) The Minister must grant or refuse the renewal of a prospecting right within 60 days if the applicant fails to comply with subsection (1), (2) or (3).".

Amendment of section 19 of Act 28 of 2002, as amended by section 15 of Act 49 of 2008

19. Section 19 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* subject to section 18, the exclusive right to apply for **[and be granted]** a renewal of the prospecting right in respect of the mineral and prospecting area in question;";

(b) by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

"(b) subject to section (2), the exclusive right to apply for **[and be granted]** a mining right in respect of the mineral and prospecting area in question; and";

(c) by the substitution in subsection (2) for paragraph *(a)* and (e) of the following paragraphs:

"*(a)* lodge such right for registration at the Mineral and Petroleum Titles Registration Office within **[60 days]** the prescribed period after the right has become effective;";

"(e) comply with conditions of environmental authorisation issued in terms of National Environmental Management Act, 1998 (Act No.107 of 1998);";

Amendment of section 20 of Act 28 of 2002, as amended by section 16 of Act 49 of 2008

20. Section 20 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) The holder of a prospecting right must obtain the Minister's written permission **[to remove and dispose for such holder's own account of diamonds and bulk samples of any other minerals found by such holder in the course of prospecting operations]** to remove bulk samples of any mineral from a prospecting area for any purpose, as prescribed."; and

(b) by the addition after subsection (2) of the following subsection:

"(3) Any person who applies for permission to remove and dispose of minerals in terms of this section must obtain an amended environmental authorisation issued in terms of National Environmental Management Act,1998(Act No. 107 0f 1998).".

Amendment of section 22 of Act 28 of 2002, as amended by section 18 of Act 49 of 2008

21. Section 22 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

(1) Any person who wishes to apply to the Minister for a mining right **[must simultaneously apply for an environmental authorisation and]** must lodge the application-

(b) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* **[at the office of the regional manager in whose region the land is situated]** on the designated application system;";

(c) by the substitution for subsection (2) of the following subsection:

"(2) **[The Regional manager, within 14 days of receipt of the application, accept an application for a mining right if]** The Minister must within 14 days accept application for a mining if "

(a) the requirements contemplated in subsection (1) are met;

(b) no other person holds a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit or retention permit for the same mineral and land; and

(c) no prior application for a prospecting right, mining right, **[or mining permit]** small-scale mining permit, artisanal mining permit or retention permit, has been accepted for the same mineral and land and which remains to be granted or refused."

(d) by the substitution for subsection (3) of the following subsection:

"(3) If the application does not comply with the requirements of this section, the **[Regional manager]** Minister must notify the applicant in writing within **[14 days]** the prescribed period of the receipt of the application.";

(e) by the substitution for subsection (4) of the following subsection:

"(4) **[If the Regional manager accepts the application]** Upon receipt of the application, the **[Regional manager]** Minister must, **[within 14 days**

from the date of acceptance] within the prescribed period, accept the application and **[,]** notify the applicant, in writing—

(a) to **[submit the relevant environmental reports, as requiredin terms of Chapter 5]** apply for Environmental Authorisation in terms of the National Environmental Management Act, 1998 (Act No.107 of 1998) within **[180]** 14 days from the date of the notice; **[and]**";

(b) to consult in the prescribed manner with the landowner, lawful occupier and any interested and affected party and **[include]** submit the result of the consultation **[in the relevant environmental reports.]** within 30 days from the date of the notice;

(c) to meaningfully consult with the interested and affected persons, within the prescribed period, regarding the prescribed social and labour plan and submit a social and labour plan in the prescribed manner; and

(d) where necessary, apply for a licence for use of water in terms of the applicable legislation. **[and]**"

(f) by the deletion of subsection (5):

["(5) The Regional manager must, within 14 days of receipt of the environmental reports and results of the consultation contemplated in subsection (4)*(b)* and section 40 forward the application to the Minister for consideration.]".

Amendment of section 23 of Act 28 of 2002, as amended by section 19 of Act 49 of 2008

22. Section 23 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(d)*, of the following paragraph:

"*(d)* the mining will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation **[is]** has been issued;";

(b) by the substitution in subsection (1) for paragraph *(e)*, of the following paragraph:

"(e) the applicant has **[provided for]** complied with the requirements of the prescribed social and labour plan, which must be reviewed every five years for the duration of the mining right;";

(c) by the substitution in subsection (1) for paragraph*(g)*, of the following paragraph:

"(g) the applicant is not in contravention of any provision of this Act; **[and]**";

(d) by the substitution in subsection (1) for paragraph*(h)*, of the following paragraph:

"*(h)* the granting of such right will further the objects referred to in section 2*(d)* and *(f)* and **[in accordance]** complies with **[the charter contemplated]** section 100(3)*(b)* and the prescribed social and labour plan**[.]**; and";

(b) by the addition in subsection (1) after paragraph *(h)* of the following paragraph:

"*(i)* the applicant has, where necessary, submitted proof of application for a licence for use of water in terms of the applicable legislation.";

(c) by the substitution for subsection (2) of the following subsection:

"(2) The Minister **[may, having regard to the nature of the mineral in question,]** must take into consideration the provisions of section 26.";

(d) by the substitution for subsection (2A) of the following subsection:

"(2A) If the application relates to the land occupied by a community, the Minister **[may]** must impose such conditions as are necessary to promote the rights and interests of the community **[, including conditions requiring the participation of the community]**.";

(e) by the substitution for subsection (4) of the following subsection:

"(4) If **[Regional manager]** the Minister refuses to grant a mining right, the Minister must, within 30 days of the decision, in writing, notify the applicant of the decision and the reasons thereof."; and

(f) by the substitution for subsection (5) of the following subsection:

"(5) *(a)* A **[mining]** right granted in terms of subsection (1) comes into effect on the effective date.

(b) where an appeal against the granting of the right has been lodged within the prescribed period, the notarial deed of granting may not be executed until such appeal has been finalised.";

Amendment of section 24 of Act 28 of 2002, as amended by section 20 of Act 49 of 2008

23. Section 24 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(c)* of the following paragraph:

"*(c)* together with the prescribed non-refundable application fee**[.]**; and";

(b) by the addition in subsection (1) after paragraph*(c)*, of the following paragraph:

"*(d)* where necessary, include proof of application for an amended environmental authorisation.";

(c) by the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* be accompanied by a report reflecting **[the extent of]** the right holder's compliance with the conditions of the National Environmental Management Act, 1998 (Act No.107 of 1998) ;";

(d) by the insertion after subsection (2) of the following subsection:

"(2A) The Minister must take into consideration the provisions of section 26;";

(e) by the substitution for subsection (3) of the following subsection:

"(3) The Minister must grant the renewal of a mining right if the application complies with subsection (1) and (2) and the holder of the mining right has complied with the—

(a) terms and conditions of the mining right and is not in contravention of **[any relevant provision of]** this Act **[or any other law]**;

(b) **[the]** approved mining work programme;

(c) **[requirements of the]** approved **[environmental management programme]** social and labour plan**;**

(d) conditions of the National Environmental Management Act, 1998 (Act No.107 of 1998) **[.]**; and

*(d*A*)* the amended environmental authorisation provided that it has, where necessary, been approved.";

(f) by the substitution for subsection (5) of the following subsection:

"(5) *(a)* A mining right in respect of which an application for renewal has been lodged shall, despite its stated expiry date, remain in force until such time as such application has been granted or refused

(b) Whilst the mining right remains in force in terms of paragraph *(a)*, the holder of the mining right is entitled to continue to conduct mining operations in terms of the existing mining work programme.

(c) Where an application in terms of paragraph *(a)* is granted, the renewal takes effect, and the renewal period for which application was made commences on, the date of execution.''; and

(g) by the addition after subsection (5) of the following subsection:

''(6) The Minister must refuse to renew a mining right if the applicant fails to comply with subsection (1), (2) or (3).''.

Amendment of section 25 of Act 28 of 2002, as amended by section 21 of Act 49 of 2008

24. Section 25 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

''(1) In addition to the rights referred to in section 5, the holder of a mining right has, subject to section 24, the exclusive right to apply for **[and be granted]** a renewal of the mining right in respect of the mineral and mining area in question.'';

(b) by the substitution in subsection (2) for paragraph *(a)* and (e)of the following paragraphs:

''*(a)* lodge such right for registration at the Mineral and Petroleum Titles Registration Office within **[60 days]** the prescribed period **[and]** after the right has become effective;'';

"(e) comply with the conditions of the environmental authorisation issued in terms of National Environmental Management Act , 1998(Act No.107 of 1998);";

(c) by the substitution in subsection (2) for paragraph *(d)* of the following paragraph:

''*(d)* comply with the **[relevant]** provisions of this Act, any other relevant law and the terms and conditions of the mining right;'';

(d) by the substitution in subsection (2) for paragraph *(f)* of the following paragraph:

''*(f)* **[comply with the requirements of]** implement the **[prescribed]** approved social and labour plan despite the operational status of the mine, which must be reviewed every five years for the duration of the mining right;'';

(e) by the insertion in subsection (2) after paragraph *(f)* of the following paragraph:

''*(f*A*)* comply with the requirements of section 100(3)*(b)*;''; and

(f) by the substitution in subsection (2) for paragraph *(h)* of the following paragraph:

''*(h)* submit the prescribed annual report, detailing the **[extent of the]** holder's compliance with **[the provisions of]** section 2*(d)* and *(f)*, section 100(3)*(b)* **[the charter contemplated in section 100]** and the approved social and labour plan.''.

Amendment of section 26 of Act 28 of 2002, as amended by section 22 of Act 49 of 2008

25. Section 26 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

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"(1) The Minister **[may]** must, in order to regulate the mining industry to meet national development imperatives and to bring optimal benefit for the Republic, promote the beneficiation of **[minerals]** mineral resources in the Republic—

(a) to ensure transformation of the mining and other sectors involved in the beneficiation of minerals or mineral products;

(b) to ensure sustainability for the supply of minerals in the national interest; and

(c) to develop local beneficiation capacity.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Minister must—

(a) Consult with other Ministers in Government on a holistic approach to support local beneficiation;

(b) taking into consideration the national developmental imperatives, such as macro-economic stability, energy security, industrialisation, food security and infrastructure development; and

(c) considering the advice of the council as contemplated in section 56B, publish in the prescribed manner conditions required to ensure security of supply for local beneficiation.";

(c) by the insertion after subsection (2A) of the following subsection:

"(2B) Every producer of minerals must make available minerals or mineral products for local beneficiation.";

Amendment of section 27 of Act 28 of 2002, as amended by section 23 of Act 49 of 2008

26. Section 27 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Application for, issuing and duration of small-scale mining permit**";

(b) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

''*(a)* the mineral in question can be mined optimally within a period of **[two]** five years; and'';

(c) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

''Any person who wishes to apply to the **[Regional manager]** Minister for a **[mining permit]** small-scale mining permit must simultaneously apply for an environmental authorisation and must, subject to section 9, lodge the application—'';

(d) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"(a) **[at the office of the Regional manager in whose region the land is situated]** on the designated application system;";

(c) by the substitution for subsection (3) of the following subsection:

"(3) The **[Regional manager]** Minister must accept an application for a mining permit if—

(a) the requirements contemplated in subsection (2) are met;

(b) no other person holds a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit or retention permit for the same mineral and land**[.]**;

(c) the granting of a permit will not result in the applicant being granted more than one **[mining permit]** small-scale mining permit on the same or adjacent land**[.]**; and

(d) no prior application for a prospecting right, mining right, small-scale mining permit and artisanal mining permit or retention permit has been accepted for the same mineral on the same land, and which remains to be granted or refused.";

(d) by the substitution in subsection (5) for the words preceding paragraph *(a)* of the following words:

"(5) **[If the Regional manager accepts]** Upon receipt of the application,**[Regional manager]** the Minister must **[within 14 days of the receipt of the application,]** accept the application and notify the applicant, in writing, within the prescribed period, to—";

(e) by the substitution in subsection (5) for paragraph *(b)* of the following paragraph:

"*(b)* submit the relevant environmental reports as required in terms of the National Environmental Management Act, 1998, within 60 days from the date of the notice**[.]**; and";

(f) by the addition in subsection (5) after paragraph *(b)* of the following paragraph:

"*(c)* to apply, where necessary, for the water use licence in terms of the applicable legislation.";

(g) by the deletion in subsection (6) of the word "and" at the end of paragraph *(a)*;

(h) by the addition in subsection (6) after paragraph *(c)* of the following paragraphs:

"*(d)* the mining will not result in unacceptable pollution, ecological degradation or damage to the environment and an environmental authorisation has, where necessary, been issued;

(e) the applicant is not in contravention of any provision of this Act; and

(f) the applicant has, where necessary, provided proof of application for a licence for use of water in terms of the applicable legislation.";

(i) by the insertion after subsection (6) of the following subsection:

"(6A) The Minister must within 30 days of receipt of an application, refuse to issue a small-scale mining permit if the applicant does not meet the requirements contemplated in subsection (6).";

(j) by the substitution in subsection (7) for the words preceding paragraph *(a)* of the following words:

"(7) The holder of a **[mining permit]** small-scale mining permit—";

(k) by the substitution in subsection (7) for paragraph *(e)* of the following paragraph:

"*(e)* must submit the **[mining permit]** small-scale mining permit for recording at the Mineral and Petroleum Titles Registration Office within 60 days after the permit has been issued.";

(l) by the substitution for subsection (8) of the following subsection:

"(8) Any holder of a small-scale mining permit, who intends to renew such permit, must lodge the application—

(a) at the office of the **[Regional manager]** Minister in whose region the land is situated;

(b) in the prescribed manner; and

(c) together with the prescribed non-refundable application fee.

(2) An application for renewal of a small-scale mining permit must—

(a) state the reasons for the renewal, and be accompanied by a detailed report reflecting the mining results, the interpretation thereof and the mining expenditure incurred; and

(b) be accompanied by a report reflecting the extent of compliance with the conditions of the environmental authorisation.

(3) The Minister must grant the renewal of a mining permit if the application complies with subsections (1) and (2) and the holder of the small-scale mining permit has complied with the—

(a) terms and conditions of the mining permit and is not in contravention of any relevant provision of this Act; and

(b) conditions of the environmental authorisation.

(4) The small-scale mining permit—

(a) is valid for the period specified in the permit, which may not exceed a period of five years, and may be renewed for a period of five years; and

(b) may be transferred, ceded, let, sublet, alienated, disposed of, or may be encumbered or mortgaged only for the purpose of funding or financing the mining project in question, with the Minister's consent, in writing;"; and

(m) by the addition after subsection (8) of the following subsections:

"(9) A permit granted in terms of subsection (6) comes into effect—

(a) on the effective date; or

(b) where an appeal against the issuing of a permit or the approval of the environmental authorisation has been lodged, within the prescribed period, until such appeal has been finalised.

(10) *(a)* A small-scale mining permit in respect of which an application for renewal has been lodged remains in force, despite its stated expiry date, until such time as such application has been issued or refused.

(b) Whilst small-scale mining permit remains in force in terms of paragraph *(a)*, the holder of such permit is entitled to continue to conduct mining operations in terms of the existing approved terms and conditions.

(c) Where an application for renewal is issued in terms of paragraph *(a)*, the renewal takes effect, and the renewal period for which the application was made, commences, on the date of issuing of the renewal permit.

(11) The Minister must grant or refuse the renewal of a small-scale mining permit within 60 days if the applicant fails to comply with subsection (1), (2) or (3).".

Insertion of section 27A in Act 28 of 2002

27. The following section is hereby inserted in the principal Act after section

"**Application for, issuing and duration of Artisanal mining permit**

27A. (1) An artisanal mining permit may only be issued if—

(a) the mineral in question can be mined optimally within a period of two years; and

(b) the mining area in question does not exceed 1.5 hectares in extent.

(2) Any person who wishes to apply to the Minister for an artisanal mining permit must simultaneously submit an artisanal mining environmental authorisation, as prescribed, and must lodge the application—

(a) at the regional office in which the land is situated or on the designated application system;

(b) in the prescribed manner; and

(c) together with the prescribed non-refundable application fee.

(3) An application for an artisanal mining permit must be accepted if—

(a) the requirements contemplated in subsection (2) are met;

(b) no other person holds a prospecting right, mining right, small-scale mining permit, artisanal mining permit or retention permit for the same mineral and land;

(c) the granting of a permit will not result in the applicant being granted more than one artisanal mining permit on the same or adjacent land; and

(d) no prior application for a prospecting right, mining right, small-scale mining permit, artisanal mining permit or retention permit has been accepted for

the same mineral on the same land, and which remains to be granted or refused.

(4) If the Minister accepts an application, the Minister must notify the applicant, in writing, within 14 days to consult, in the prescribed manner, with the landowner, lawful occupier and any interested and affected party, and include the result of the consultation in the relevant environmental reports.

(5) The Minister must, within 30 days of receipt of the application , issue an artisanal mining permit if–

(a) the requirements contemplated in subsection (1) are satisfied;

(b) an artisanal mining environmental authorisation is issued; and

(c) the applicant has the ability to comply with health and safety guidelines.

(6) The holder of an artisanal mining permit must submit the artisanal mining permit for recording at the Mineral and Petroleum Titles Registration Office within 30 days after the permit has been issued.

(7) Any holder of an artisanal mining permits who wishes to apply to the Minister for the renewal of such permit must lodge the application—

(a) at the office of the Minister in whose region the land is situated or on the designated application system.

(b) in the prescribed manner; and

(c) together with the prescribed non-refundable application fee.

(8) An application for renewal of artisanal mining permits must—

(a) state the reasons for the renewal; and

(b) be accompanied by a report reflecting the extent of compliance with the conditions of the artisanal mining environmental authorisation.

(9) The Minister must grant the renewal of an artisanal mining permit if the application complies with subsections (1) and (2) and the holder of the artisanal mining permit has complied with the—

(a) terms and conditions of the artisanal mining permit, and is not in contravention of any relevant provision of this Act; and

(b) conditions of the artisanal mining environmental authorisation.

(10) An artisanal mining permit—

(a) is valid for the period specified in the permit, which may not exceed a period of two years, and may be renewed for another period of two years; and

(b) may not be transferred, ceded, let, sublet, alienated, disposed of, encumbered or mortgaged.".

Substitution of section 28 of Act 28 of 2002, as amended by section 24 of Act 49 of 2008

28. The following section is hereby substituted for section 28 of the principal Act:

"**Information and data in respect of mining and processing of minerals.**

(1) The holder of a mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit must, at the registered office or place of business of such holder, keep proper records of mining activities and proper financial records in connection with the mining activities.

(2) The holder of a mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit ,**[or]** the manager of any mineral or mineral product processing plant and any agent, purchaser or seller of any mineral or mineral product operating as part of or separately from a mine, must submit to the Director-General—

(a) prescribed monthly returns with accurate and correct information and data; **[and]**

(b) an audited annual financial report or financial statements reflecting the balance sheet and profit and loss account; and

(c) **[an]** the prescribed annual report detailing **[the extent of the holder's compliance with the provisions of section 2*(d)* and *(f)*, the charter contemplated in section 100 and the approved social and labour plan]** accurate information and data in respect of mineral reserves and resources within the mining areas.

(3) The holder of a mining right must submit to the Minister the prescribed annual report detailing the holder's compliance with section 2*(d)* and *(f)*, the broad-based socio-economic empowerment prescribed elements of ownership, inclusive procurement, supplier and enterprise development, human resources development, employment equity and mining community development and the approved social and labour plan.''.

Amendment of section 29 of Act 28 of 2002, as amended by section 28 of Act 49 of 2008

29. The following section is hereby substituted for section 29 of the principal Act:

"**Minister's power to direct submission of specified information or data**

29. The **[Regional manager]** Minister may, in order to achieve the objects of this Act to fulfil any of the functions in terms of this Act, direct, in writing, that specified information or data be submitted by—

(a) an applicant for a prospecting right, mining right, retention permit **[or mining permit]**, small-scale mining permit or artisanal mining permit, as the case may be;

(b) any holder of a prospecting right, mining right, retention permit **[or mining permit]**, small-scale mining permit or artisanal mining permit; or

(c) any owner or lawful occupier of land which is the subject of a prospecting right, mining right, retention permit **[or mining permit]**, small-scale mining permit or artisanal mining permit, or which is the subject of an application for such a right or permit or of a prospecting or mining operation.".

Amendment of section 30 of Act 28 of 2002, as amended by section 26 of Act 29 of 2008

29. Section 31 of the principal Act is hereby amended-

(a) by the substitution of subsection 2 of the following subsection:

"(2) No information or data may be disclosed to any person if it contains information or data which is of commercially nature and is supplied to be treated as confidential **[in confidence]** by the supplier of the information or data.

(b) by substitution of subsection 3 of the following subsection

" (3) Any person submitting information or data in terms of section 28 or 29 must inform the Regional Manager concerned and indicate which information and data is of commercial nature and must be treated as confidential and may not be disclosed.

Amendment of section 31 of Act 28 of 2002, as amended by section 26 of Act 49 of 2008

30. Section 31 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) Any holder of a prospecting or mining right who wishes to apply to the **[Regional manager]** Minister for a retention permit must—";

(b) by the substitution in subsection (1) for paragraph *(e)* of the following paragraph:

"*(e)* submit a report reflecting **[the extent of]** compliance with **[the]** section 32(1) ."; and

(c) by the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* the applicant is the holder of the prospecting or mining right in question.".

Amendment of section 32 of Act 28 of 2002, as amended by section 27 of Act 49 of 2008

31. Section 32 of the principal Act is hereby amended—

(a) by the substitution for subsection 1 of paragraph (a) (b) and (e) of the following paragraphs:

"(1) The **[Regional manager]** Minister may issue a retention permit if the holder of the prospecting or mining right has—

(a) prospected or mined on the land to which the application relates;

(b) completed the prospecting or mining activities and a feasibility study during prospecting;

(e) complied with the relevant provisions of this Act, any other relevant law and the terms and conditions stipulated in the prospecting or mining right";

(b) by the substitution for subsection (2) of the following subsection:

"(2) A retention permit issued under subsection (1) suspends the terms and conditions of the prospecting or mining right held in respect of the land to which the retention permit relates and if the prospecting or mining period or has not expired, the duration of the prospecting or mining right in question runs concurrently with that of the retention permit.";

(c) by the substitution for subsection (3) of the following subsection:

"(3) Despite subsection (2), the conditions of the environmental authorisation issued in terms of National Environmental Management Act, 1998 (Act No. 107 of 1998) in respect of the prospecting or mining right remains in force as if the prospecting or mining right had not lapsed."; and

(d) by the substitution for subsection (4) of the following subsection:

"(4) A retention permit is valid for the period specified in the permit, which period may not exceed three years, in respect of the prospecting right and five years, in respect of the mining right.".

Amendment of section 33 of Act 28 of 2002, as amended by section 28 of Act 49 of 2008

32. Section 33 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph *(a)* of the following words:

"The Minister may refuse to issue a retention permit if, after having regard to the information submitted under 32(1) and research conducted by the **[Board]** council at the request of the Minister, it is established that—"; and

(b) by the substitution for paragraph *(b)* of the following paragraph:

"*(b)* the applicant has not completed the prospecting or mining operations and feasibility study in relation thereto; or ".

Amendment of section 37 of Act 28 of 2002, as amended by section 30 of Act 49 of 2008

34. Section 37 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) **[The principles set out in section 2]** All environmental requirements provided for by this Act will be implemented in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998)**[—**

(a) **apply to all prospecting and mining operations, as the case may be, and any matter or activity relating to such operation; and**

(b) **serve as guidelines for the interpretation, administration and implementation of the environmental requirements of this Act]**.''.

Amendment of section 38B of Act 28 of 2002, as amended by section 32 of Act 49 of 2008

35. Section 38B of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

''(1) An environmental management plan or environmental management programme approved in terms of this Act before and at the time of the coming into effect of the National Environmental Management Amendment Act, **[1998]** 2014, shall be deemed to have been approved and an environmental authorisation been issued in terms of the National Environmental Management Act, 1998.''; and

(b) by the addition after subsection (3) of the following subsection:

''(4) All pending applications lodged in terms of this Act prior to the coming into operation of the National Environmental Management Amendment Act, 2014, shall be processed in terms of this Act as if the National Environmental Management Amendment Act, 2014, is not in operation.''.

Insertion of section 42A in Act 28 of 2002

36. The following section is hereby inserted in the principal Act after section 42:

"**Management of historic residue stockpiles and residue deposits**

42A. (1) In order to promote orderly and optimal development of mineral resources and guarantee security of tenure, all historic residue stockpiles and residue deposits currently not regulated under this Act belong to the owners thereof and shall continue in force for a period of two years from the date on which the Mineral and Petroleum Resources Development Amendment Act, 2025, commences.

(2) The holder of a mining right, small-scale mining permit or artisanal mining permit, who owns historic residue deposits or residue stockpiles which are located within the mining area has an exclusive right to apply for an amendment of the mining works programme in terms of section 102 to include such deposits and stockpiles into the right.

(3) The holder referred to in subsection (2) must process the residue deposits and residue stockpiles in terms of the amended mining works programme.

(4) The owner of any historic residue deposit and residue stockpile located outside the mining area has an exclusive right to apply, in the prescribed manner, at the office of the**[Regional manager]** Minister in whose region the residue deposit or residue stockpile is situated, for a mining right,

small-scale mining permit or artisanal mining permit, as the case may be, within a period of two years from the date of commencement of the Mineral and Petroleum Resources Development Amendment Act, 2025.

(5) The mining right, small-scale mining permit or artisanal mining permit, as the case may be, is valid for a period specified in such a right or permit, which period may not exceed 30 years, depending on the circumstances of each case, taking into account the nature and extent of the residue deposit and residue stockpile.

(6) The Minister must grant a mining right, small-scale mining permit or artisanal mining permit in terms of subsection (4) if the applicant satisfies the requirements contemplated in section 23 or 27, as the case may be.

(7) The holder must lodge the mining right, small-scale mining permit or artisanal mining permit within the prescribed period from the date of execution at the Mineral and Petroleum Titles Registration Office for recording or registration, as the case may be.

(8) Upon execution, recording or registration of the mining right, small-scale mining permit or artisanal mining permit, as the case may be, the historic residue deposit or residue stockpile shall be deemed to be regulated in terms of this Act.

(9) In cases of historic residue deposits and residue stockpiles located outside the mining area and where the owner fails to apply for a mining right, small-scale mining permit or artisanal mining permit within the period referred to in subsection (4), the custodianship of the minerals in such historic residues and stockpiles shall revert back to the State.''.

Amendment of section 43 of Act 28 of 2002, as amended by section 34 of Act 49 of 2008

37. Section 43 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The holder of a prospecting right, mining right, retention permit, **[mining permit]** small-scale mining permit or artisanal mining permit, or previous holder of an old order right or previous owner of works that has ceased to exist, remains responsible for any environmental liability, pollution, ecological degradation, the pumping and treatment of extraneous water, compliance **[to]** with the conditions of the environmental authorisation and the management and sustainable closure thereof, until the Minister has issued a closure certificate in terms of this Act to the holder or owner concerned.";

(b) by the insertion after subsection (1) of the following subsection:

"(1A) Despite the issuing of the closure certificate, the holder or owner referred to subsection (1) remains liable for any latent or residual environmental liability, pollution, ecological degradation, the pumping and treatment of extraneous water which may become known in the future.";

(c) by the substitution for subsection (2) of the following subsection:

"(2) On the written application, in the prescribed manner, by the holder of a prospecting right, mining right, retention permit, **[mining**

permit] small-scale mining permit or artisanal mining permit, or previous holder of an old order right or previous owner of works that **[has]** have ceased to exist, the Minister may transfer such environmental liabilities and responsibilities as may be identified in the environmental management report and any prescribed closure plan to a person with such qualifications as may be prescribed.";

(d) by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words:

"(3) The holder of a prospecting right, mining right, retention permit, **[mining permit]** small-scale mining permit or artisanal mining permit, or previous holder of an old order right or previous owner of works that **[has]** have ceased to exist, or the person contemplated in subsection (2), as the case may be, must apply for a closure certificate upon—";

(e) by the substitution for subsection (5) of the following subsection:

"(5) No closure certificate may be issued unless the Chief Inspector **[and each government department charged with the administration of any law which relates to any matter affecting the environment]** of Mines and the Department of Water and Sanitation have confirmed, in writing, that the provisions pertaining to health and safety and management of pollution to water resources, the pumping and treatment of extraneous water and compliance to the conditions of the environmental authorisation have been addressed.";

(f) by the substitution for subsection (5A) of the following subsection:

"(5A) Confirmation from the Chief Inspector of Mines and **[each government department]** Department of Water and Sanitation as contemplated in subsection (5) must be received within 60 days from the date on which the Minister informs **[such]** the Chief Inspector of Mines or **[government department]** Department of Water and Sanitation, in writing, to do so.";

(g) by the substitution for subsection (6) of the following subsection:

"(6) When the Minister issues a certificate, he or she **[must return such portion of the financial provision contemplated in section 41 the National Environmental Management Act, 1998, as the Minister may deem appropriate, to the holder of the prospecting right, mining right, retention permit, mining permit, previous holder of an old order right or previous owner of works or the person contemplated in subsection (2), but]** may retain any portion of such financial provision for latent and residual **[safety, health or]** environmental impact which may become known in the future for such period, as the Minister may determine, having regard to the circumstances relating to the relevant operation, which portion and period must be determined in the prescribed manner.";

(h) by the substitution for subsection (7) of the following subsection:

"(7) The holder of a prospecting right, mining right, retention permit, **[mining permit]** small-scale mining permit or artisanal mining permit, or previous holder of an old order right or previous owner of works that **[has]** have ceased to exist, or the person contemplated in subsection (2), as the

case may be, must plan for, manage and implement such procedures and such requirements on mine closure as may be prescribed.";

(i) by the substitution for subsection (11) of the following subsection:

"(11) The holder of a prospecting right, mining right, retention permit**, [mining permit]** small-scale mining permit or artisanal mining permit, or previous holder of an old order right or previous owner of works that **[has]** have ceased to exist, or the person contemplated in subsection (2), as the case may be, operating or who has operated within an area identified in subsection (9), must amend their programmes, plans or environmental authorisations accordingly or submit a closure plan, subject to the approval of the Minister, which is aligned with the closure strategies contemplated in subsection (10)."; and

(j) by the addition after subsection (13) of the following subsection:

"(14) The holder of a right or permit, who formally or legally abandons the right and has not conducted any invasive operations in terms of the right, is exempted from the provisions of section 43(6).".

Amendment of section 44 of Act 28 of 2002, as amended by section 35 of Act 49 of 2008

38. Section 44 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) When a prospecting right, mining right, retention permit **[or mining permit]**, small-scale mining permit or artisanal mining permit lapses, is cancelled or is abandoned or when any prospecting or mining operation ceases, the holder of any such right or permit may not demolish or remove any building, structure or object—".

Amendment of section 45 of Act 28 of 2002, as amended by section 36 of Act 49 of 2008

39. Section 45 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) If any prospecting, mining**[,]** or reconnaissance **[,exploration, or production operations or]** activities incidental thereto cause or results in ecological degradation, pollution or environmental damage, or is in contravention of the conditions of the environmental authorisation, or which may be harmful to health, safety or well-being of anyone and requires urgent remedial measures, the Minister**[, in consultation with the Minister of Environmental Affairs and Tourism,]** may direct the holder of the relevant right or permit in terms of this Act or the holder of an environmental authorisation in terms of National Environmental Management Act, 1998 to—;"; and

(b) by the substitution in subsection (2) for paragraph *(d)* of the following paragraph:

"*(d)* **[In addition to the application in terms of]** If funds raised by way of seizure and selling of property as envisaged in paragraph *c)* are insufficient to cover the expenses of implementing such measures, the Minister may use funds appropriated for that purpose by Parliament to fully implement such measures.".

Amendment of section 46 of Act 28 of 2002, as amended by section 37 of Act 49 of 2008

40. Section 46 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) If the Minister directs that measures contemplated in section 45 must be taken to prevent pollution or ecological degradation of the environment, to address any contravention in the environmental authorisation or to rehabilitate dangerous health or safety occurrences but establishes that the holder of a reconnaissance permission, prospecting right, mining right, retention permit, **[mining permit]** small-scale mining permit or artisanal mining permit, the holder of an old order right or the previous owner of works, as the case may be, or his or her successor in title is deceased or cannot be traced, or in the case of a juristic person, has ceased to exist, has been liquidated or cannot be traced, the Minister **[in consultation with the Minister of Environment Affairs and Tourism,]** may instruct the Minister concerned to take the necessary measures to prevent pollution or ecological degradation of the environment or to rehabilitate dangerous health and social occurrences or to make an area safe.".

Amendment of section 47 of Act 28 of 2002, as amended by section 38 of Act 49 of 2008

41. Section 47 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) Subject to subsections (2), (3) and (4), the Minister may cancel or suspend any reconnaissance permission, prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit, retention permit or **[holders of]** old order rights or **[previous owners of]** works, if the holder or owner thereof—";

(b) by the deletion in subsection (1) of paragraph *(d)*;

(c) by the substitution in subsection (2) for paragraph *(c)* of the following paragraph:

"*(c)* afford the holder **[a reasonable opportunity]** a period of 30 days to make representations, in writing, **[to show]** as to why the right, permit or permission should not be suspended or cancelled; and";

(d) by the substitution in subsection (2) for paragraph *(d)* of the following paragraph:

"*(d)* notify the mortgagee, if any, of the prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit concerned of his or her intention to suspend or cancel the right or permit**[.]**; and;";

(e) by the addition in subsection (2) after paragraph *(d)* of the following paragraph:

"*(e)* direct the holder, in writing, to take specified measures to remedy any contravention, breach or failure.";

(f) by the deletion of subsection (3);

(g) by the substitution for subsection (4) of the following subsection:

"(4) If the holder does not comply with the **[direction]** directive given under subsection **[(3)]** (2)*(e)*, the Minister may act under subsection (1) against the holder after having—

(a) given the holder **[a reasonable opportunity]** a period of 30 days to make representations, as contemplated in subsection (2)*(c)*; and

(b) considered any such representations."; and

(h) by the substitution in subsection (5) for paragraph *(a)* of the following paragraph:

"*(a)* complies with a directive contemplated in subsection **[(3)]** (2)*(e)*; or".

Amendment of section 48 of Act 28 of 2002, as amended by section 39 of Act 49 of 2008

42. Section 48 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"(1) Subject to section 48 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), and subsection (2), no reconnaissance permission, prospecting right, mining right may be

granted or **[mining permit]** small-scale mining permit or artisanal mining permit be issued in respect of—";

(b) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* land comprising a residential area and any land which is within an approved town planning scheme and zoned for residential purposes;"; and

(c) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"(2) A reconnaissance permission, prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit may be issued in respect of the land contemplated in subsection (1) if the Minister is satisfied that—".

Amendment of section 49 of Act 28 of 2002, as amended by section 40 of Act 49 of 2008

43. Section 49 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsection (2), the Minister may, **[after inviting representations from relevant stakeholders, from time to time]** after consulting the relevant Ministers, by notice in the *Gazette*, having regard to the national interest, designate certain minerals as strategic **[nature of the]** minerals to promote sustainable development of the nation's mineral resources—

(a) prohibit or restrict the granting of any reconnaissance permission, prospecting right, mining right, **[mining permit]** small-scale mining permit or artisanal mining permit in respect of land identified by the Minister for such period and on such terms and conditions as the Minister may determine; or

(b) restrict the granting of any reconnaissance permission, **[reconnaissance permit,]** prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit in respect of a specific mineral **[or mining permit in respect of a specific mineral or]**, minerals or class of minerals identified by the Minister for such period and on such terms and conditions as the Minister may determine.";

(b) by the substitution for subsection (4) of the following subsection:

"(4) Subject to subsection (2)*(b)*, the Minister may, by notice in the *Gazette*, invite applications for a reconnaissance permission, prospecting right, mining right, **[mining permit]** small-scale mining permit or artisanal mining permit in respect of any mineral or land, and may specify in such notice the period within which any application may be lodged and terms and conditions subject to which such rights or permit may be granted."; and

(c) by the addition after subsection (4) of the following subsection:

"(5) An application referred to in subsection (4) may be granted if the application complies with the requirements of sections 14, 17, 23, 27 or 27A of this Act, as the case may be.".

Amendment of section 50 of Act 28 of 2002

44. Section 50 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may **[cause]** direct that an investigation **[to]** be conducted on any land to establish if any mineral or geological formation occurs in, on or under such land and, if so, to establish the nature and extent thereof."; and

(b) by the substitution in subsection (4) for paragraph *(a)* of the following paragraph:

"*(a)* No person may for the purposes of an investigation contemplated in subsection (1) enter upon land, unless the owner, occupier **[or]**, person in control of such land or community has been consulted and notified, in writing, of the intention to enter and to conduct the investigation.".

Amendment of section 51 of Act 28 of 2002

45. Section 51 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsection (2), the **[Board]** council may recommend to the Minister to direct the holder of a mining right to take corrective measures if the **[Board]** council establishes that the minerals are not being mined optimally in accordance with the mining work programme or

that a continuation of such practice will detrimentally affect the objects referred to in section 2*(f)*.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) Before making the recommendation, the **[Board]** council must consider whether the technical and financial resources of the holder of a mining right in question and the prevailing market conditions justify such recommendation.";

(c) by the substitution for subsection (3) of the following subsection:

"(3) *(a)* If the Minister agrees with the recommendation, he or she must, within 30 days from the date of receipt of the recommendation of the **[Board]** council, in writing, notify the holder that he or she must take such corrective measures as may be set out in the notice and must remedy the position within the period **[mentioned]** specified in the notice.

(b) The Minister must afford the holder the opportunity to make representations in relation to the **[Board's]** council's findings within 60 days from the date of the notice and must point out that non-compliance with the notice **[might]** may result in suspension or cancellation of the mining right.";

(d) by the substitution in subsection (4) for the words preceding paragraph *(a)* of the following words:

"(4) The Minister may, on the recommendation of the **[Board]** council, suspend or cancel the mining right if—"; and

(e) the substitution in subsection (5) for the words preceding paragraph *(b)* of the following words:

"(5) The Minister may, on the recommendation of the **[Board]** council, lift the suspension of a mining right if the holder in question -".

Amendment of section 52 of Act 28 of 2002, as amended by section 41 of Act 49 of 2008

46. Section 52 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"(2) The **[Board]** council must, after consultation with the relevant holder, investigate—"; and

(b) by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

"*(a)* The Minister may, **[on the recommendation of the Board and]** after consultation with the Minister of Labour and any registered trade union or affected persons or their nominated representatives where there is no such trade union, direct, in writing, that the holder of the mining right in question take such corrective measures subject to such terms and conditions as the Minister may determine.".

Amendment of section 53 of Act 28 of 2002, as amended by section 42 of Act 49 of 2008

47. Section 53 of the principal Act is hereby amended—

(a) by substitution for subsection (1) of the following subsection:

"(1) Subject to subsection (2), any person who intends to use the surface of any land in any way which may be contrary to any object of this Act or which is likely to impede any such object must **[apply]** obtain comments **[to]** from the Minister **[for approval]** in the prescribed manner";

(b) by the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* the use of any land which lies within an approved town-planning scheme which has applied for and obtained **[approval]** comments in terms of subsection (1)";

(c) by the substitution for subsection (3) of the following subsection:

"(3) Despite subsection (1), the Minister may **[cause]** direct that an investigation **[to]** be conducted if it is alleged that a person intends to use the surface of any land in a way that could result in the mining of mineral resources being detrimentally affected."; and

(d) by the substitution in subsection (4) for paragraph *(c)* of the following paragraph:

"*(c)* offer that person the opportunity to respond within **[30 days]** the prescribed period.".

Amendment of section 54 of Act 28 of 2002

48. Section 54 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) The holder of a reconnaissance permission, prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit must notify the relevant the Minister if that holder is prevented from commencing or conducting any reconnaissance, prospecting or mining operations because the owner or the lawful occupier of the land in question—";

(b) by the substitution in subsection (1) for paragraph *(c)* of the following paragraph:

"*(c)* cannot be found in order to **[apply for]** gain access.";

(c) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"(2) The **[Regional manager]** Minister must, within **[14 days]** the prescribed period from the date of the notice referred to in subsection (1)—";

(d) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(a)* call upon the owner or lawful occupier of the land to make representations regarding the issues raised by the holder of the reconnaissance permission, prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit;"; and

(e) by the substitution for subsection (6) of the following subsection:

"(6) If the Minister determines that the failure of the parties to reach an agreement or to resolve the dispute is due to the fault of the holder of the reconnaissance permission, prospecting right, mining right **[or mining permit]**, small-scale mining permit or artisanal mining permit, the Minister

may, in writing, prohibit such holder from commencing or continuing with prospecting or mining operations on the land in question until such time as the dispute has been resolved by arbitration or by a competent court.".

Amendment of section 56 of Act 28 of 2002, as amended by section 43 of Act 49 of 2008

49. The following section is hereby substituted for section 56 of the principal Act:

"**Lapsing of right, permit and permission**

56. (1) Any right, permit **[or]** and permission granted or issued in terms of this Act shall lapse, whenever—

[*(a)* it expires;]

(b) the holder thereof is deceased and there are no successors in title;

(c) a company **[or close corporation]** is finally deregistered in terms of the relevant Acts and no application has been made or was made to the Minister for the consent in terms of section 11 or such permission has been refused;

[*(d)* save for cases referred to in section 11(3), the holder is liquidated or sequestrated;]

(e) it is cancelled in terms of section 47; or

(f) it is abandoned.

(2) in the event that the holder is liquidated and finally deregistered or sequestrated, the right, permit, permission, or license must fall within the insolvent estate and if sold, transferred to the purchaser subject to the prior written consent of the Minister in terms of section 11.''.

Insertion of sections 56A, 56B, 56C, 56D, 56E, 56F and 56G in Act 28 of 2002

50. The following sections are hereby inserted in the principal Act after section 56:

''**Establishment of Ministerial Advisory Council**

56A. (1) The Minister may establish a council to be known as the Ministerial Advisory Council.

(2)The Minister must appoint the members of the council as prescribed.

(3) The Minister must appoint the following members of the council:

(a) The Chairperson;

(b) the Chief Inspector;

(c) three persons representing relevant state departments;

(d) a Regional manager ;

(e) three persons representing organised business;

(f) three persons representing organised labour; and

(g) at least two other persons with appropriate experience, expertise or skill to enhance the council's capabilities of performing its functions more effectively.

(4) The members of the council must elect one of its members as deputy chairperson at their first meeting.

Functions of council

56B. The council must advise the Minister on—

(a) sustainable development of the nation's mineral resources;

(b) the growth and transformation of the mineral industry;

(c) the terms and conditions applicable to beneficiation as contemplated in section 26; and

(d) any other matter which the Minister refers to the council.

Subcommittees of council

56C. (1) The council may appoint subcommittees to assist with its functions as it may determine.

(2) The council must determine the composition of a subcommittee.

(3) The council may at any time dissolve or reconstitute a subcommittee.

(4) The council must designate a member of a subcommittee as chairperson of that subcommittee.

(5) The council is not absolved from the performance of any function entrusted to a subcommittee.

(6) The council may make rules regarding the manner in which meetings of a subcommittee are to be convened, the procedure, the functions of, and the quorums for such meetings and the manner in which minutes of such meetings must be kept.

Disqualification of members

56D. (1) A person may not be appointed as a member of the council—

(a) unless he or she is a South African citizen who resides in the Republic permanently; or

(b) if he or she—

(i) is an unrehabilitated insolvent;

(ii) has been declared to be of unsound mind by a court of the Republic; or

(iii) has been convicted of an offence committed after the date of commencement of the Constitution, and sentenced to imprisonment without the option of a fine, unless the person has received a grant of amnesty or a free pardon before the date of his or her appointment.

Vacation of office

56E. (1) A member of the council must vacate his or her office if he or she—

(a) becomes subject to any disqualification contemplated in section 56D or, in the case of an official in the service of the State, ceases to be such an official;

(b) has been absent for more than two consecutive meetings of the council, without leave;

(c) tenders his or her resignation, in writing, to the Minister and the Minister accepts the resignation; or

(d) is removed from the office by the Minister in terms of subsection (2).

(2) The Minister may remove any member of the council from office—

(a) on account of misconduct or inability to perform any of the functions of his or her office effectively; or

(b) if the member has engaged in any activity that may undermine the integrity of the council, which activities may include—

(i) participation in any investigation, hearing or decision concerning a matter in respect of which that person has a financial or personal interest;

(ii) making private use of, or profiting from, any confidential information obtained as a result of performing his or her functions as a member of the council; or

(iii) divulging any information referred to in subparagraph (ii) to any third party, except as required by or under this Act or the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Term of office and filling of vacancies

56F. (1) A member of the council shall hold office for a period not exceeding three years.

(2) The Minister may reappoint any member of the council at the expiry of his or her term for another period not exceeding three years.

(3) If a member of the council vacates office or dies, the Minister may fill the vacancy by appointing a person in accordance with section 56A (2) for the unexpired period of the term of office of his or her predecessor.

Remuneration and allowances of members council

56G. The members of the council who are not in the full-time employment of the State must be paid such remuneration and allowances as may be determined by the Minister, in consultation with the Minister of Finance.''.

Repeal of sections 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68 of Act 28 of 2002

51. Sections 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89 and 90 of the principal Act are hereby repealed.

Amendment of section 91 of Act 28 of 2002

52. Section 91 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may designate **[any member of the Board, the or]**, any officer or any person with appropriate expertise as an authorised person, who can carry out the functions contemplated in subsection (4) and in section 92.";

and

(b) by the substitution in subsection (4) for paragraph *(a)* of the following paragraph:

"*(a)* in order to obtain evidence, enter any reconnaissance, prospecting, mining **[,exploration, production]** or retention area, or any place where prospecting operations or mining operations are being conducted, where he or she has reason to believe that any provision of this Act has been, is being or will be contravened;".

Insertion of section 91A in Act 28 of 2002

53. The following section is hereby inserted in the principal Act after section 91:

"**Powers of South African Police Service members**

91A. (1) A member of the South African Police Service has, in respect of an offence in terms of this Act, all the powers of an authorised person in terms of section 91, including the powers conferred in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), excluding the power—

(a) to conduct routine inspections in terms of section 92; and

(b) to issue and enforce compliance notices in terms of section 93.

(2) Notwithstanding subsection (1), the Minister may, in concurrence with the Minister responsible for police, by written notice to a member of the South African Police Service, assign to that member all the powers contemplated in sections 92 and 93.".

Amendment of section 93 of Act 28 of 2002, as amended by section 67 of Act 49 of 2008

54. Section 93 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

"*(b)* any term or condition of any right, permit or permission or any other law granted or issued or an environmental authorisation issued, has occurred or is occurring on the relevant reconnaissance, **[exploration, production,]** prospecting, mining or retention area or place where prospecting operations or mining operations or processing operations are being conducted, such a person **[may]**—

(i) must order the holder of the relevant right, permit or permission, or the person in charge of such area, any person carrying out or in charge of the carrying out of such activities or operations or the manager, official, employee or agent of such holder or person to, take immediate rectifying steps; **[or]** and

(ii) may order that the reconnaissance, prospecting, **[exploration,]** mining **[, production]** or processing operations **[or part thereof]** be suspended **[or terminated,]** and give such other instructions in connection therewith as may be necessary.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Director-General must confirm or set aside any order contemplated in subsection (1) **[*(a)* or]** *(b)*(i) and (ii).''; and

(c) by the substitution for subsection (3) of the following subsection:

"(3) The Director-General must notify the relevant holder or other person contemplated in subsection (1), in writing, within **[60 days]** the prescribed period after the order referred to in subsection (1) **[*(a)* or]** *(b)*(i) and (ii), whether such order has been set aside or confirmed, failing which such order shall lapse.''.

Amendment of section 96 of Act 28 of 2002, as amended by section 68 of Act 49 of 2008

55. Section 96 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Any person whose rights or legitimate expectations have been materially and adversely affected or who is aggrieved by any administrative decision in terms of this Act may appeal within 30 days becoming aware of such administrative decision in the prescribed manner to—

(a) **[the Director-General, if it is an administrative decision by a the Regional manager or any officer to whom the power has been delegated or a duty has been assigned by or under this Act]** ,the Minister if the decision was taken in terms of this Act provided that appeals already lodged to the Director-General at the promulgation of this Act, shall be deemed to be appeals lodged to the Minister; or

(b) **[the Minister, if it is an administrative decision that was taken by the Director-General or the designated agency]** the Minister of Water and Sanitation and Forestry, Fisheries and the Environment, if the decision taken relates to environmental matters and issues incidental thereto, in which instance the appeal is lodged and considered in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998).";

(b) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(a)* **[An]** Subject to subsections (2A) and (2B), an appeal in terms of subsection (1) does not suspend the administrative decision, unless

it is suspended by **[the Director-General or]** the Minister **[, as the case maybe]**.";

(c) by the insertion after subsection (2) of the following subsections:

"(2A) Any pending administrative decision in terms of this Act, which, in the opinion of the Minister, may affect the outcome of an appeal in terms of subsection (1), must be suspended pending the finalisation of the appeal.

(2B) Notwithstanding any other provision in this Act, any right granted in terms of this Act and any decision related to environmental matters shall not be effective and shall not be executed, unless the prescribed period for the lodgement of an appeal has expired, and if such appeal is lodged, until such appeal has been finalised."; and

(d) by the substitution for subsection (3) of the following subsection:

"(3) **[No]** Subject to section 7(2)*(c)* of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), no person may apply to the court for the review of an administrative decision contemplated in subsection (1) until that person has exhausted his or her remedies in terms of that subsection.".

Amendment of section 97 of Act 28 of 2002

56. Section 97 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Save as is otherwise provided for in this Act, any notice, order, directive or other document which is required in terms of this Act to be served on or given to any person, must be regarded as having been duly served or given if—

(a) it is delivered by hand to that person; or

(b) it is sent by registered mail to that person's last known business, postal or residential address**[.]**; or

(c) it is sent by electronic mail to that person's last known electronic mail address.".

Amendment of section 98 of Act 28 of 2002, as amended by section 69 of Act 49 of 2008

57. Section 98 of the principal Act is hereby amended—

(a) by the substitution in paragraph *(a)* for subparagraph (i) of the following subparagraph:

"(i) **[section 5(4), or 28]** sections 2, 5A, 5B, 5C, 11, 15, 19, 20, 21; 25, 26, 27, 28, 35, 43 and 102;

(b) by the substitution in paragraph *(a)* for subparagraph (vii) of the following subparagraph:

"(vii) any **[direction]** directive contemplated in section 29; or;"; and

(c) by the deletion of paragraph *(c)*.

Amendment of section 99 of Act 28 of 2002

58. Section 99 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Any person convicted of **[a]** an offence in terms of this Act is liable—

(a) in the case of an offence referred to in section 98*(a)*(i), to a fine not exceeding **[R100 000]** 10 percent of the person's or right holder's annual turnover in the Republic and its exports from the Republic during the person's or right holder's preceding financial year or to imprisonment for a period not exceeding **[two]** ten years or to both such fine and such imprisonment;

(b) in the case of an offence referred to in section 98*(a)*(ii), to the penalty that may be imposed for perjury;

(c) in the case of an offence referred to in section 98*(a)*(iii), to a fine not exceeding **[R500 000]** five percent of the person's or right holder's annual turnover in the Republic and its exports from the Republic during the person's or right holder's preceding financial year or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment;

(d) in the case of an offence referred to in section 98*(a)*(v), to the penalty that may be imposed in a magistrate's court for a similar offence;

(e) in the case of an offence referred to in section 98*(a)*(vi) and (vii), to a fine not exceeding **[R10 000]** five percent of the person's or right holder's annual turnover in the Republic and its exports from the Republic during the person's or right holder's preceding financial year;

(f) in the case of an offence referred to in section 98*(c)*, to a fine not exceeding R500 000 for each day that such person persists in contravention of the said provisions; and

(g) in the case of any conviction of an offence in terms of this Act for which no penalty is expressly determined, to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment **[; and]**.''; and

(b) by the insertion after subsection (1) of the following subsection:

''(1A) *(a)* An authorised person referred to in section 91 may make a recommendation, in writing, to the Director-General for a fine to be imposed on the holder that has failed to comply with any provision contemplated in section 98(iv).

(b) The authorised person must serve a copy of the recommendation referred to in paragraph *(a)* on the holder concerned.

(c) The holder may make written representations to the Director-General within 30 days of receipt of a copy of the recommendation referred to in paragraph *(b)*.

(d) A representation made in terms of paragraph *(c)* may not be used against the holder in any criminal or civil proceedings in respect of the same set of facts.

(e) The Director-General, after considering the recommendation and any representation made in terms of paragraph *(c)*, must, within the prescribed period from the date of receipt of the holder's representations in terms of paragraph *(a)*(iii) or after expiry of the 30 day period in paragraph *(a)*(iii), without such representations having been made, whichever is the earlier—

(aa) disregard the recommendation;

(bb) impose a fine not exceeding R800 000; or

(cc) refer the matter to the National Prosecuting Authority for a decision as to whether the holder should be charged with an offence.

(ii) The Director-General must, in writing, notify the holder of his or her decision made in terms of paragraph *(b)*(i) within the prescribed period.

(iii) The holder may appeal the decision of the Director-General in terms of section 96(1)*(b)*.

(iv) Save if the holder has lodged an appeal in terms of paragraph *(b)*(iii), the holder must pay any fine imposed in terms of paragraph *(b)*(i)*(bb)* within 30 days of receipt of the Director-General's notification thereof in terms of paragraph *(b)*(ii).

(v) If the right holder fails to pay the fine within the period referred to in paragraph *(b)*(iv) and an appeal has not

been lodged within the required period, the Director-General may file with the clerk or registrar of a competent court a certified copy of the notice contemplated in paragraph *(b)*(ii), and the notice thereupon has the effect of a civil judgment lawfully given in that court in favour of the Department.

(c) Money received by the Department in payment of administrative fines imposed in terms of paragraph *(a)* must be paid to a fund established and controlled by the Council for Geoscience in terms of this Act.

(d) The Council for Geoscience must, in consultation with the Minister, use the money in the fund for the promotion of prospecting activities in the mining industry and matters incidental thereto.".

Amendment of section 100 of Act 28 of 2002, as amended by section 70 of Act 49 of 2008

59. Section 100 of the principal Act is hereby amended by the addition after subsection (2) of the following subsections:

"(3) The Minister must, when granting applications in terms of section 23, impose—

(a) the provisions of the housing and living conditions standard for the minerals industry and codes of good practice for the minerals industry;

(b) the broad-based socio-economic empowerment prescribed elements of Black Economic Empowerment ownership, inclusive procurement,

supplier and enterprise development, human resources development, employment equity and mining community development.

(4) The Minister shall, as and when the need arises, amend or repeal the housing and living conditions standard for the minerals industry, codes of good practice for the minerals industry and the broad-based socio-economic empowerment prescribed elements of BEE ownership, inclusive procurement, supplier and enterprise development, human resources development, employment equity and mining community development.''.

Substitution of section 101 of Act 28 of 2002, as amended by section 71 of Act 49 of 2008

60. The following section is hereby substituted for section 101 of the principal Act:

"**Appointment of contractor**

101. If the holder of a right, permit or permission appoints any person or employs a contractor to perform any work within the boundaries of the reconnaissance, mining, prospecting **[, exploration, production]** or retention area, as the case may be, such holder remains responsible for compliance with this Act.".

Amendment of section 102 of Act 28 of 2002, as amended by section 72 of Act 49 of 2008

61. Section 102 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A reconnaissance permission, prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit, retention permit, **[technical corporation permit, reconnaissance permit, exploration right, production right,]** prospecting work programme, **[exploration work programme, production work programme,]** mining work programme, **[environmental management programme]** social and labour plan, or an environmental authorisation issued in terms of the National Environmental Management Act, 1998, as the case may be, **[may]** must not be amended or varied (including by extension of the area covered by it or by the **[additional]** addition of minerals or a share or shares or seams, mineralised bodies or strata, which are not at the time the subject thereof) without the written consent of the Minister.";

(c) by the addition after subsection (2) of the following subsections:

"(3) Subject to compliance with subsection (4), any right holder of prospecting or mining of any mineral must, while prospecting or mining such mineral, also prospect, mine and dispose of associated minerals in respect of which such holder is not the right holder, but which must of necessity be prospected or mined with the licenced mineral, and the right holder must declare such associated minerals or any other minerals discovered in the prospecting or mining process.

(4) The right holder contemplated in subsection (3) must, within 60 days from the date of making a declaration, apply for an amendment of the right in terms of Section 102 to include the mineral so declared,

(5) Subject to sub-section 4, should the right holder not apply to include such associated mineral, those associated minerals are relinquished to the State.

Amendment of section 104 of Act 28 of 2002 as amended by section 74 of Act 49 of 2008

62. Section 104 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The preferent right referred to in subsection (1) shall not be granted in respect of areas, where a prospecting right, mining right, **[mining permit]** small-scale mining permit, artisanal mining permit **[,]** or retention permit**[, production right, exploration right, technical operation permit or reconnaissance permit]** has already been granted.".

Amendment of section 106 of Act 28 of 2002, as amended by section 76 of Act 49 of 2008

63. Section 106 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any landowner or lawful occupier of land who lawfully**[,]** takes sand, stone, rock, gravel or clay for farming or for effecting improvements in connection with such land or community development purposes, is exempted from the provisions of **[in]** subsection (1), as long as the sand, stone, rock, gravel or clay is not sold or disposed of.".

Amendment of section 107 of Act 28 of 2002, as amended by section 77 of Act 49 of 2008

64. Section 107 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph *(a)* of the following paragraph:

"*(a*A) the rehabilitation of disturbances of the surface of land where such disturbances are connected to prospecting or mining operations;";

(b) by the substitution for paragraph *(g)* of the following paragraph:

"*(g)* the form, conditions, issuing, renewal, abandonment, suspension or cancellation of any **[environmental management programme,]** permit, **[licence,]** certificate, **[permission,]** receipt or other document which may or **[have to]** must be issued, granted, approved, required or renewed in terms of this Act;";

(c) by the insertion in subsection (1) after paragraph *(j)* of the following paragraphs:

"*(j*A) the determination of terms and conditions applicable to beneficiation of mineral resources as contemplated in section 26;

*(j*B) the procedure applicable in respect of an invitation for applications in terms of section 9A;

(jC) (i) the manner and form in which interested and affected persons must be informed of an application for a right in terms of section 16,22 or 27 of this Act; and

(ii) the manner and form of consultation required with such interested and affected persons; and

(jD) the promotion of transformative elements of Broad-Based Black Economic Empowerment ownership, inclusive procurement, supplier and enterprise development, human resources development, employment equity and mining community development;"; and

(d) by the addition after subsection (1) of the following subsection:

"(1A) The Minister must, when making regulations as provided for in terms of subsection (1)*(jA)* and *(jC)*, consult with affected stakeholders.".

Amendment of Schedule II to Act 28 of 2002, as amended by section 79 of Act 49 of 2008

65. Schedule II to the principal Act is hereby amended—

(a) by the subsitution in item 3 for subitem (1) of the following subitem:

"(1) Any application for a prospecting permit, mining authorisation, consent to prospect, consent to mine or permission to remove and dispose of any mineral lodged, but not finalised, in terms of section 6, 8 or 9 of the Minerals Act immediately before this Act took effect must be regarded as

having been lodged in terms of section **[13,]** 16, 22 [;] or 27**[, 79 or 83]** of this Act, as the case may be.".

(b) by the substitution in item 4 for subitem (5) of the following subitem:

"(5) **[the]** The holder must lodge the right converted under subitem (3) within 90 days from the execution date **[on which he or she received notice of conversion]** at the Mineral and Petroleum Titles Registration Office for **[deregistration]** registration and **[simultaneously]** at the Deeds office or the Mineral and Petroleum Titles Registration Office for deregistration of the OP26 sublease, as the case may be.";

(c) by the substitution in item 4 for subitem (7) of the following subitem:

"(7) Upon the conversion of the sublease **[and the registration of the exploration right into which it was converted]**, the sublease ceases to exist.";

*(d)*by the substitution in item 5 for subitem (5) of the following subitem:

"(5) The holder must lodge the right converted under subitem (3) within 90 days from the execution date **[on which he or she received notice of conversion]** at the Mineral and Petroleum Titles Registration Office for registration and **[simultaneously]** at the Deeds office or the Mineral and Petroleum Titles Registration Office for deregistration **[for deregistration]** of the OP26 lease, as the case may be,";

(e) by the substitution in item 5 for subitem (7) of the following subitem:

"(7) Upon the conversion of the lease **[and the registration of the production right into which it was converted]**, the lease ceases to exist.";

(f) by the substitution in item 6 for subitem (5) of the following subitem:

"(5) The holder must lodge the right converted under subitem (3) within 90 days from the execution date **[on which he or she received notice of conversion]** at the Mineral and Petroleum Titles Registration Office for registration and **[simultaneously]** at the Deeds Office or the Mineral and Petroleum Titles Registration Office for deregistration of the old order prospecting right, as the case may be.";

(g) by the substitution in item 6 for subitem (7) of the following subitem:

"(7) Upon the conversion of the old order prospecting right **[and the registration of the prospecting right into which it was converted]**, the old order prospecting right ceases to exist.";

(h) by the substitution in item 7 for subitem (5) of the following subitem:

"(5) The holder must lodge the right converted under subitem (3) within 90 days from the execution date **[on which he or she received notice of conversion]** at the Mineral and Petroleum Titles Registration Office for registration and **[simultaneously]** at the Deeds Office or the Mineral and Petroleum Titles Registration Office for deregistration of the old order mining right, as the case may be.";

(i) by the substitution in item 7 for subitem (7) of the following subitem:

"(7) Upon the conversion of the old order mining right, **[and the registration of the mining right into which it was converted]** the old order mining right ceases to exist."; and

(j) by the substitution in item 9 for subitem (2) of the following subitem:

"(2) The holder, user or acquirer of any reservation**[, permission]** or right to use the surface of land contemplated in subitem (1) must register such reservation**[, permission]** or right in the Mineral and Petroleum Titles Registration Office within six years from the date on which **[this Act]** the Mineral and Petroleum Resources Development Amendment Act 49 of 2008, took effect and if such holder, user or **[occupier]** acquirer fails to register such reservation**[, permission]** or right, the reservation**[, permission]** or right shall cease to exist."

Amendment of Preamble to Act 28 of 2002

66. The Preamble to the principal Act is hereby substituted for the following Preamble:

"**PREAMBLE**

RECOGNISING that minerals **[and petroleum]** are non-renewable natural resources;

ACKNOWLEDGING that South Africa's mineral **[and petroleum]** resources are a common heritage that belong to the nation and that the State is the custodian thereof;

AFFIRMING the State's obligation to protect the environment for the benefit of present and future generations, to ensure ecologically sustainable development of mineral **[and petroleum]** resources and to promote economic and social development;

REAFFIRMING the State's commitment to reform to bring about equitable access to South Africa's mineral **[and petroleum]** resources;

BEING COMMITTED to eradicating all forms of discriminatory practices in the mineral **[and petroleum industries]** industry.".

Short title and commencement

67. This Act is called the Mineral Resources Development Amendment Act, 2025, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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