



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

GUIDELINE FOR THE SUBMISSION OF A SOCIAL AND LABOUR PLAN

**AS REQUIRED IN TERMS OF REGULATION 46 OF THE
MINERAL AND PERTOLEUM RESOURCES DEVELOPMENT ACT
(ACT 28 OF 2002)**

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ACRONYMS

ABET	Adult Basic Education and Training
DMR	Department of Mineral Resources
DoL	Department of Labour
HDSA	Historically Disadvantaged South Africans
IDP	Integrated Development Plan
LED	Local Economic Development
LRA	Labour Relations Act (Act no.66 of 1995)
MPRDA	Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002)
SETA	Sector Education Training Authority
SMME	Small Medium Micro Enterprise
JV	Joint Venture
NSDS	National Spatial Development Strategy
PGDS	Provincial Growth Development Strategy
SLP	Social and Labour Plan

INTRODUCTION

The purpose of the Mineral and Petroleum Resources Development Act, 2002, (Act No 28 of 2002) (MPRDA) is amongst others to transform the mining and production industries in South Africa. In order to ensure effective transformation in this regard, the Act requires the submission of the Social and Labour Plan as a pre-requisite for the granting of mining or production rights. The Social and Labour Plan requires applicants for mining and production rights to develop and implement comprehensive Human Resources Development Programmes, Mine Community Development Plan, Housing and Living Conditions Plan, Employment Equity Plan, and Processes to save jobs and manage downscaling and/or closure.

The above programmes are aimed at promoting employment and advancement of the social and economic welfare of all South Africans whilst ensuring economic growth and socio-economic development. The management of downscaling and/or closure is aimed at minimizing the impact of commodity cyclical volatility, economic turbulence and physical depletion of the mineral or production resources on individuals, regions and local economies. To this effect the Department of Mineral Resources (DMR) deemed it appropriate to provide the relevant guidelines for the development and implementation of the Social and Labour Plan.

Purpose of the guidelines

The guidelines are intended to assist applicants for mining and production rights in preparing the prescribed Social and Labour Plans specified in Part II of the Regulations of the (MPRDA).

Definitions

“Calendar year” is defined as the one year period that begins on January 1st and ends on December 31st;

“Community” means a coherent, social group of persons with interest of rights in a particular area of land which the members have or exercise communally in terms of an agreement, custom or law;

“Demographics” means the numerical characteristics of a population (e.g. population size, age, structure, sex/gender, race, etc.)

“Historically Disadvantaged South Africans” (“HDSA”) refers to South African citizens, category of persons or community, disadvantaged by unfair discrimination before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) came into operation which should be representative of the demographics of the country;

“Labour sending area” areas from which a majority of mineworkers, both historical and current are or have been sourced;

“Level of management” refers to line of demarcation between various managerial positions;

“Life of Mine” means the number of years that a particular mine will be operational;

“Mining Charter” means the broad-based socio-economic empowerment Charter for the South African Mining and Minerals Industry;

“Mine Community” refers to communities where mining takes place and labour sending areas;

“Social Fund” refers to a trust fund that provides financing for investments targeted at meeting the needs of poor and vulnerable communities as informed by commitments made by companies in terms of their social and labour plans;

“Sustainable development” means the integration of social, economic and environmental factors into planning, implementation and decision-making to ensure that the mineral and petroleum resources development serves present and future generations.

Objectives of the Social and Labour Plan

The objectives of the Social and Labour Plan are to:

- (a) Promote economic growth and mineral and petroleum resources development in the Republic (Section 2 (e) of the (MPRDA);
- (b) Promote employment and advance the social and economic welfare of all South Africans (Section 2 (f) of the MPRDA);
- (c) Ensure that holders of mining or production rights contribute towards the socio-economic development of the areas in which they are operating as well as the areas from which the majority of the workforce is sourced (Section 2 (i) of the MPRDA, and the Charter); and
- (d) To utilize and expand the existing skills base for the empowerment of HDSA and to serve the community.

Submission of the Social and Labour Plan

- (a) An application for a mining or production right in terms of the Act must be accompanied by a Social and Labour Plan. (Regulation 42).
- (b) The Regional Manager or Designated Agency may refer the said Social and Labour Plan back to the applicant with proposals for amendments and the revised Social and Labour Plan must then be re-lodged within a period specified by the Regional Manager or the designated Agency (Regulation 42).

Applicability of the Social and Labour Plan

A Social and Labour Plan lodged with the Regional Manager is valid until a closure certificate has been issued in terms of section 43 of the Act (Regulation 43).

Amendment of the Social and Labour Plan

A Social and Labour Plan may not be amended or varied without the consent of the Minister after the granting of the mining or production right to which such Social and Labour Plan pertains (Regulation 44).

Reporting on the Social and Labour Plan

The holder of a mining right or mining permit, or the manager of any processing plant operating separately from a mine must submit to the Director General an annual report detailing the extent of the holders compliance with the provisions of section 2(d) and (f), the charter contemplated in section 100 and the social and labour plan on the compliance with the Social and Labour Plan.

Note: *The Regional Manager or Designated Agency may request progress report as and when required.*

CONTENTS OF SOCIAL AND LABOUR PLAN

Preamble

The following background information must be provided (Regulation 46 a)

Item	Explanation
1.1 Name of the company/applicant	Organization's registered name
1.2 Name of mine/ production Operation	Self explanatory
1.3 Physical Address	Mine address and not corporate address
1.4 Postal Address	Self explanatory
1.5 Telephone Number	Self explanatory
1.6 Fax Number	Self explanatory
1.2 Location of mine or production Operation	Route or locality map with clear direction to the operation
1.8 Commodity	Commodities to be mined
1.9 Life of mine	Projected period that the mine will remain operational before closure as justified by Mining Work Programme.
1.10 Financial Year	Date of financial year for the company
1.11 Reporting Year	by 31 st March of each year.
1.12. Responsible person	Mine Manager
1.13 Geographic origin of employees (mine community and labour sending areas).	Provide the origin of employees as per provincial, district municipality and local municipality

Note:

- *Where the SLP is submitted on behalf of a mine or a production operation composing of a number of components (e.g. shafts), individual preambles must be attached for each component*
- *The number of employees provided in the breakdown of employees per mine community should be the same as the information in Form Q*
- *If at the time of application, there are no employees, a date on which outstanding information would be submitted, should be provided.*

HUMAN RESOURCE DEVELOPMENT PROGRAMME

The primary objective of human resource development programme is to ensure development of requisite skills in respect of learnerships, bursaries (of core and critical skills), artisans, ABET training (level I, II, III, IV and NQF 1), other training initiatives reflective of demographics as defined in the amended Mining Charter.

Compliance With Skills development Legislation

Applicants who by law have to register with SETAs must provide the following:

Name of SETA.	
Registration number with the SETA.	
Confirmation of having appointed a Skills Development Facilitator.	
Proof of submission of workplace skills plan and date of submission.	

Skills development plan - Regulation 46 (b) (i)

Provide a detailed skills development plan that outlines how the Mine or Production Operation intends to offer employees development of requisite skills in respect of learnerships, bursaries (of core and critical skills), artisans, ABET training (level I, II, III, IV and NQF 1), other training initiatives reflective of demographics as defined in the amended Mining Charter.

The following should be provided:

Form Q- Number and education levels of the workforce;

Determine current illiteracy level and ABET needs;

Provide the targets to be trained and the timeframes; and

Provide how ABET would be implemented.

Note:

If there are contract workers a separate Form Q should be provided.

The following is an example of how the targets and timeframes can be captured:

ABET Level	Targets and timelines					
	<i>Note: This is only a guide. The plan should have the actual calendar timelines</i>					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total budget
ABET 1						
ABET 2						
ABET 3						
ABET 4						
Total number						
Budget						

In addition to the ABET plan Core Business Training, Learnerships, Artisans and any other training should be provided.

The following information should be provided:

Types/Area of training

Targets and timeframes

The following format can be used:

Type / area of training	Targets and timelines					
	<i>Note: This is only a guide. The plan should have the actual calendar timelines</i>					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total budget
Total number						
Budget						

Having provided the targets and timeframes, also provide how training would be implemented.

Note:

Regarding learnerships, a distinction should be made between internal learnerships for the benefit of employees and external learnerships for non-employees.

Form R Hard-to-fill vacancies

Provide the vacancies that the Mine or Production Operation has been unable to fill for a period longer than 12 months despite concerted effort to recruit suitable candidates, if any, in the format of Form R.

Career Progression (path) Plan

In order to meet the requirements of Regulation 46 (b) (ii) the following should be provided:

Career development matrices of each discipline (inclusive of minimum entry requirements and timeframes);

Develop individual development plans for employees;

Identify a talent pool to be fast tracked in line with the needs; and

Provide a comprehensive plan with targets, timeframes and how the plan would be implemented.

Current position	Training intervention	Qualification to be achieved	Year 1		Year 2		Year 3		Year 4		Year 5	
			No of identified employees		No of identified employees		No of identified employees		No of identified employees		No of identified employees	
			new	cont.								

Note:

Every employee should be provided with the opportunity to be developed, however, this does not mean that everyone should be progressed without following the normal progression procedure/s.

Mentorship Plan

In order to meet the requirements of Regulation 46 (b) (iii), the following should be provided:

Mentorship plan for employees

Identify areas of development that require mentoring, Provide a detailed plan highlighting number of mentors and mentees with target and timeframes and how the plan will be implemented;

Link with individual development programmes;

Focus on learners, career progression targets, employment equity targets, interns and bursars; and

Detailed plan with targets, timeframe and how they will be achieved.

MENTORING PROGRAMME	CAREER DELIVERABLES	DURATION	TARGET		GENDER	
			HDSA	NON-HDSA	FEMALE	MALE

Note:

Mentorship should be made available for all levels of the workforce

Bursary and Internship Plan

The purpose is to provide bursary and experiential learning opportunities to employees and mine communities. In order to meet the requirements of Regulation 46 (b) (iv) the following should be considered:

The company must, however, apply fair selection criteria in this regard. The plan must conform to the skills development plan, and should focus on building capacity in various skills and careers for employees and mine communities reflective of demographics as defined in the Mining Charter.

Bursary Plan

Provide targets, timeframes and budget;

Provide areas of learning in line with the needs of the company;

Separate internal and external bursars; and

Indicate whether bursaries are continuous or new intakes.

Note:

Bursaries should be informed by the hard to fill-vacancies (Form R), the needs of the operation and the Republic.

Bursary Field	Targets and timelines.					
	Note: <i>this is only a guide. The plan should have the actual calendar timelines.</i>					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total budget
Total number						
Budget						

Internship Plan

Provide targets, timeframes and budget;

Provide areas of learning in line with the needs of the company;

Provide how interns would be afforded the opportunity for experiential learning;

Separate internal and external internships;

The plan should be inclusive of own funded studies; and

The plan should be reflective of demographics as defined in the amended Mining Charter.

Internship plan	Targets and timelines. Note: <i>this is only a guide. The plan should have the actual calendar timelines.</i>					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total budget
Total number						
Budget						

1. **EMPLOYMENT EQUITY PLAN**

The purpose of the plan is to ensure diversity as well as participation of HDSA at all decision-making positions and core occupational categories in the mining industry. Every mining company must achieve a minimum of 40% HDSA in management reflective of demographic representation. The plan should reflect the annual progressive targets as follows:

EMPLOYMENT EQUITY TARGETS

(Year 1)

Occupational levels	Male				Female				Total	Disabled	
	African	Coloured	Indian	White	African	Coloured	Indian	White		Male	Female
Top management (Board)											
Senior management (Exco)											
Middle Management											
Junior Management											
Core Skills											

HDSA in management

ELEMENT	DESCRIPTION	MEASURE	COMPLIANCE TARGET	PROGRESS ACHIEVED BY				
Employment Equity	Diversification of the workplace to reflect the countries demographics to attain competitiveness	Top Management (Board)	40%	20%	25%	30%	35%	40%
		Senior Management (EXCO)	40%	20%	25%	30%	35%	40%
		Middle Management	40%	30%	35%	40%	40%	40%
		Junior Management	40%	40%	40%	40%	40%	40%
		Core Skills	40%	15%	20%	30%	35%	40%

Note: The set targets are as per the current Mining Charter. Should the targets be revised as and when required, then the plan should be aligned to the agreed Charter targets at any given time.

In order to meet the requirements of Regulation 46 (b) (v) the following should be considered:

Provide form S and the current management structure as reflected below;

- Executive Management (Board);
- Senior management (EXCO);
- Core and Critical skills;
- Middle management level; and
- Junior management level.

Provide the current management structure reflective of demographics;

The plan should reflect the annual progressive targets as provided for in table 3.8; and

Provide a detailed plan on how the targets as reflected in 3.8 would be met.

MINE COMMUNITY DEVELOPMENT

The primary objective of mine community development is to meaningfully contribute towards community development, both in terms of size and impact, in keeping with the principles of the social license to operate.

The Mine or Production Operation must consult and co-operate in the formulation and review of the Integrated Development Plan (IDP)s of the mine communities. The mine or production operation must furthermore consult with other economic development frameworks like Provincial Growth and Development Strategy (PGDS), National Spatial Development Strategy (NSDS), National Priorities and any other relevant stakeholders.

The Mine or Production Operation must, through consultation with communities and relevant authorities provide a plan. The plan should be in line with the IDP's of the mine community.

Social and economic background information (Regulation 46 (c) (i))

Provide the social and economic baseline information of the mine community.

The background information must include but not limited to the following: Gender Profile; Population Profile; Health and HIV/AIDS Prevalence; Economic Profile; Education Levels; Expenditure Profile; Employment Profile; Income Profile; Infrastructure, Housing; Water and Sanitation as well as Electricity.

Key economic activities (Regulation 46 (c) (ii))

Provide the key economic activities of the mining community.

Provide names of other mining companies that operate in your area of operation.

Negative Impact of the mining operation

Relocation of people;

Exhumation of graves; and

Influx of people –Informal settlements.

Note

The above are examples of impacts that mining or production operations could have on communities. The onus is on the applicant to provide any information that might impact negatively on the community due to the mining or production operation.

Having identified any negative impact, the applicant should address such impact as required by the relevant legislation and such initiative(s) should not be regarded as mine community development projects.

Infrastructure and poverty eradication projects that the mine would undertake in line with the (I D P) of the areas and other relevant frameworks in which the mine operates and the major sending areas. (Regulation 46 (c) iv)

Provide needs of the area in order of priority (See Table 4.a below);

General	Specific	Type of need	Municipality
<i>e.g Education</i>	<i>Building of school</i>	<i>Infrastructure</i>	<i>Name of municipality where this specific need has been identified.</i>

Table 4a

Having specified the needs, identify projects that will be implemented in line with the needs;

Provide an implementation plan of the identified projects that will be implemented to address the needs; and

Provide the impact that the identified projects would have on the Community(ies) and the areas in line with the duration of the mining right.

Development Projects

Projects to be implemented should be classified as follows:

Infrastructure projects;

Income generating projects.

The following is an example of a project implementation template.

Additions to provide more information are acceptable.

Project Plan Format

(See Annexure A)

(Annexure "A")

Project Name	The name of the project: e.g. Building of houses		Classification of project e.g. Infrastructure				
Background	<ul style="list-style-type: none"> • Provide information on the project regarding its relevance to the developmental needs of the area. • Provide the stage that the project is at the time of identification e.g. new project at the initial stages or extension of a project or resuscitation of a potential project that was not well managed 						
Geographical location of project	District Municipality	Local Municipality	Village name	Project Start Date		Project End date	
Output	Key Performance Area	Key Performance Indicator	Responsible entity (inclusive of all role players)	Quarterly timelines and year	Quarterly timelines and year	Quarterly timelines and year	Budget
Classification of jobs	No of jobs to be create	Male Adults	Female Adults	Male Youth	Female Youth	Total	Comments
Short Term							
Medium Term							
Long Term							
Completion date and exit strategy NB: Beneficiaries should be outlined.							

Note:

The provision should be in line with the plans. Furthermore, the applicant should indicate their financial contribution.

2. **MEASURES TO ADDRESS HOUSING AND LIVING CONDITIONS**

In order to meet the requirements of Regulation 46 (c) (iv) the following should be considered:

Provide the current status of available dwelling for employees;

Provide current status of houses within the community;

Provide the municipality's strategy to address housing;

Establish the preferred requirements for housing and living conditions of the workforce; and

The plan should include but is not limited to:

Promotion of home ownership;

Converting hostels into single quarters and family units; and

Reduction of occupancy rate reflecting the following targets:

- 2011 = 25%
- 2012 = 50 %
- 2013 = 75 %
- 2014 = 100%

Note:

The plan should be integrated with the municipality's housing plan. Every mine should, in consultation with representatives of trade unions, be required to draw up a five year plan for the improvement of living conditions for workers incorporating specific targets.

The housing plan should be aligned with the housing and living standards as per section 100 (1) (a) of the MPRDA.

PROCESSES PERTAINING TO MANAGEMENT OF DOWNSCALING AND RETRENCHMENT

Organizations have to retrench workers from time to time for economic reasons and to remain globally competitive. It is therefore important that employers should first make sure that no other viable options to achieve operational requirements are available before considering downscaling of workers. The Declaration of the Presidential Jobs Summit during October 1998 provided a framework for a Social Plan to prevent job losses where possible and to guide the affected parties who have to deal with retrenchments. The framework included a broad proposal for implementation of the Social Plan.

A detailed process, in conjunction with section 52 of the Act and regulation 46 (e), for saving jobs, managing downscaling and regenerating local economies must be developed for implementation at the time of such need. This process must also be in line with the Department of Labour's Social Plan Guidelines.

Your company must take note of and follow the procedures for downscaling and retrenchment as set out by the Department of Labour (DoL) and the Labour Relations Act (LRA). The mine must develop turnaround strategies and mechanisms to save jobs, prevent unemployment and avoid downscaling. In particular, your operation must follow the "notification process" as outlined in the Social Plan Guidelines and the LRA. Your company, through the Future Forum, should anticipate downscaling, manage potential retrenchments on a basis that is informed by the skills development process relating to the preparation of employees for such events, and assist the affected employees with alternative forms of employment or sustainable livelihood opportunities. The communication process should strive for active participation by employees, mine management, communities, government authorities and community organisations

In order to meet the requirements of Regulation 46 (d) (i), (ii), (iii), and (iv), the following process must include but not limited to the following:

Establishment of future forum

Provide an undertaking to establish a Future Forum within six months after the conversion of an old order mining right and two year after the new mining right has been granted. The Future Forum should comprise of management and workers or their representatives. The functions of the Future Forum include but are not limited to:

Promote ongoing discussions between worker representatives and employers about the future of the mine;

Look ahead to identify problems, challenges and possible solutions with regard to productivity and employment;

Develop turnaround and redeployment strategies to help reduce job losses and to improve business sustainability; and

Implement strategies agreed upon by both employer and worker parties.

Mechanisms to save jobs, provide alternative solutions and procedures for creating job security where job losses cannot be avoided

Provide a plan to save jobs and that plan must have measurable indicators and timeframes. The proposed plan should be in line with the terms of Section 52 (1) of the MPRDA and Section 189 of the LRA.

Management of retrenchments

Outline the process to be followed in managing retrenchments humanely in consultation with organized labour. The proposed plan should be in line with the terms of Section 52 (1) of the MPRDA, National Social plan guideline of DoL and Section 189 of the LRA.

Mechanisms to ameliorate the social and economic impact on individuals, regions and economies where retrenchment or closure of the operation is certain

Outline the process to be followed to ameliorate the social and economic impact on individuals, regions and economies. The process must include but not limited to:

Comprehensive self-employment training programmes;

Comprehensive training and re-employment programmes;

Comprehensive portable skills development plan;

The projects earmarked for absorbing the retrenched should be outlined;
and

The abovementioned plans must be submitted to DMR 24 months prior to the commencement of the downscaling process.

FINANCIAL PROVISION

In order to meet the requirements of Regulation 46 (e) (i), (ii), (iii), the following should be considered:

In line with sections 23 (1) (e) and 84 (1) (g), the applicant for a mining and production right must provide financially and otherwise for the social and labour plan.

- Financial provision should be in monetary value (Rand); and
- The provision should cater for all components of SLP.

Note:

Financial commitment should be the sole responsibility of the mining right holder. Where other partners or stakeholders are involved, mechanisms should be put in place to ensure delivery.

An example:

ITEM	TIME PERIOD					
	2010	2011	2012	2013	2014	Total
HUMAN RESOURCE DEVELOPMENT						
LOCAL ECONOMIC						

DEVELOPMENT						
HOUSING AND LIVING CONDITIONS						
MANAGEMENT OF DOWNSCALING						

Note:

Any projects that will be implemented at the time of retrenchment should be provided for financial. Where other partners or stakeholders are involved, the company mechanisms should be put in place to ensure delivery.

UNDERTAKING

The person responsible for the social and labour plan, who is responsible to make known the social and labour plan to the employees and who must be contacted for follow-ups, requests, reports, queries, enquiries, discussions, etc. at time of such needs must make the following undertaking on behalf of the Mine or Production Operation. The Chief Executive Officer, Managing Director or any other person so appointed must approve the social and labour plan.

I, _____ the undersigned and duly authorized thereto

by _____ (Company) undertake to adhere to the information, requirements, commitments and conditions

as

set out in the social and labour plan.

Signed at _____ on this _____ day _____ 20_____

Signature of responsible person

Designation _____

Approved

Signed at _____ on this ____ day of _____ 20 ____

Signature: _____

Designation: _____