REPUBLIC OF SOUTH AFRICA

GROWTH AND EMPLOYMENT IN MINING ["GEM"] BILL

(As introduced to the PEOPLE OF SOUTH AFRICA
By the South African Institute of Race Relations (IRR))

[#WhatSACanBe—2026]

To repeal and replace provisions of the Mineral and Petroleum Resources Development Act of 2002 and related policy instruments that impose race-based ownership or other empowerment requirements for the granting, suspension or cancellation of mining rights; to restore respect for the rule of law and constitutionally protected rights to property and just administrative action in the mining sector; to establish an objective, transparent, and time-bound licensing regime based on technical and financial capacity rather than demographic criteria; to permit limited, optional, and fully paid State participation on commercial terms; to replace race-based empowerment in mining with Economic Empowerment for the Disadvantaged (EED), focused on socio-economic need, growth-enhancing investment and rising employment; to modernise mine health, safety and environmental regulation through proportionate, outcomes-based standards and credible closure arrangements; to provide for transparent administration, independent adjudication, and transitional arrangements; to uphold the Constitution's founding values of non-racialism, human dignity, equality before the law, and accountable governance; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Republic of South Africa possesses world-class mineral resources capable of supporting sustained economic growth, export earnings, employment, technological development, and substantial fiscal revenues;

AND WHEREAS mineral resources have been nationalised by vesting them in the custodianship of the State, following which South Africa has experienced a sustained decline in mining investment and mineral exploration, with capital increasingly flowing to jurisdictions offering objective licensing criteria, faster approvals, and credible protection for long-term investment;

AND WHEREAS mining is an inherently capital-intensive and long-horizon activity in which the availability, cost, and duration of funding depend on security of tenure, predictable rules, and the absence of discretionary administrative power capable of altering, suspending or cancelling mining rights after capital has been committed;

AND WHEREAS the progressive expansion of discretionary powers under mining legislation, together with ever-shifting policy instruments such as mining charters and social and labour plans, has undermined confidence, delayed projects, curtailed exploration, and constrained the capital investment necessary to improve safety, environmental performance, and productivity;

AND WHEREAS empowerment policies in mining that rely on racial classification and compulsory ownership transfers have proven economically destructive, administratively complex, and socially divisive, while benefiting a narrow group of intermediaries rather than expanding opportunity for the poor and disadvantaged at scale;

AND WHEREAS a constitutionally coherent approach to empowerment requires a decisive shift from race-based compulsion to a non-racial model that rewards measurable contributions to

investment, employment, skills development, innovation, safety and the direct upliftment of disadvantaged persons;

AND WHEREAS genuine and sustainable improvements in mine health and safety depend not only on compliance enforcement but on the mobilisation of capital for mechanisation, modernisation, and innovation, which in turn requires regulatory certainty, proportionate obligations, and rational administrative decision-making;

AND WHEREAS environmental protection in mining is best secured through clear, outcomes-based standards that specify environmental objectives while allowing flexibility in the means for attaining these, supported by scientifically grounded assessment, credible closure arrangements, and an end to liability once appropriate levels of rehabilitation have been achieved;

AND WHEREAS the Constitution of the Republic of South Africa, 1996, protects property from deprivation and expropriation; guarantees freedom of trade, occupation, and profession; requires lawful, reasonable, and procedurally fair administrative action; and entrenches the rule of law and non-racialism as founding values;

AND WHEREAS mining legislation must therefore respect constitutional limits on state power, uphold guaranteed rights to property and administrative justice, and provide a certain and predictable legal framework capable of attracting investment while safeguarding health, safety, and the environment;

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

ARRANGEMENT OF SECTIONS

CHAPTER 1
DEFINITIONS, INTERPRETATION, AND OBJECT

1. Definitions

In this Act, unless the context indicates otherwise—

"cadastre" means a comprehensive, publicly accessible, digital register recording the location and extent of mineral resources as well as all applications made for mining rights in the Republic and all decisions on the granting or refusal of such applications;

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

"Economic Empowerment for the Disadvantaged" or "EED" means a non-racial system of empowerment that rewards measurable contributions that directly and materially expand opportunity for disadvantaged persons, including through investment, employment, skills development, innovation, improved safety outcomes, environmental protection, and direct support for education, housing, and healthcare;

"mining charter" means the the Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry developed under Section 100 of the Mineral and Petroleum Resources Development Act of 2004 and any subsequent iterations or forms of it;

"mineral resources" means naturally occurring concentrations of solid inorganic or fossilised organic material in the Earth's crust of a form, grade and quantity suitable for economic extraction, but excluding petroleum resources;

"mining right" means a registrable, transferable real right to mine for specified mineral resources within a defined area, granted in accordance with this Act;

"Programme of Mining Operations" means a detailed plan, verified by appropriately qualified experts, setting out the minerals to be mined and/or processed, and the technical, financial, safety, and environmental aspects of proposed mining operations;

"security of tenure" means the legally enforceable assurance that a mining right will not be cancelled, suspended, or materially impaired except on clear statutory grounds, following fair procedures, and subject to independent review by the Independent Mining Tribunal and Independent Mining Appeals Tribunal established under this Act.

2. Object of Act

The object of this Act is to—

(a) restore South Africa as a globally competitive mining jurisdiction by replacing vague legislation, excessive administrative discretion, and shifting policies with a clear, objective, and time-bound system for the granting and holding of mining rights;

(b) secure constitutionally compliant mineral governance grounded in respect for property rights, just and reasonable administrative action, and the protection of investments;

(c) revive mineral exploration and long-term capital investment by providing security of tenure and predictable regulations over the life of a mine;

(d) replace race-based empowerment obligations in mining with Economic Empowerment for the Disadvantaged, a non-racial framework that rewards growth-enhancing contributions and expands opportunity for the poor and disadvantaged at scale;

(e) promote improved mine health and safety outcomes by facilitating the investment, mechanisation, and innovation required to reduce exposure to high-risk working conditions, supported by proportionate obligations and rational enforcement;

(f) modernise environmental regulation for mining through outcomes-based standards, streamlined authorisation, and credible closure arrangements that provide finality of liability once reasonable standards of rehabilitation have been achieved;
(g) align South African mining law with international best practice in order to maximise employment, export earnings, fiscal revenues, and technological development;
(h) repeal or amend all race-based laws or provisions, particularly those that hinder investment and fail to uplift disadvantaged South Africans;
(i) replace all iterations of the Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry ("the mining charter") and the entire policy framework and system of Black Economic Empowerment (BEE or B-BBEE) with Economic Empowerment for the Disadvantaged (EED), emphasising socio-economic targeting, private-sector competition and dynamism, and the prohibition of unfair racial discrimination; and
(j) promote transparent oversight, ensure accountability, and remove race-based impediments to investment and sustained economic growth.

3. Application and supremacy

(1) This Act applies to the granting, holding, renewal, transfer, encumbrance, and termination of mining rights.
(2) This Act does not regulate artisanal or small-scale mining, and no provision of this Act may be construed as creating or authorising a permitting regime for such mining.
(3) In the event of any conflict between this Act and any other law relating to mining rights other than the Constitution, this Act prevails.

CHAPTER 2
MINERAL RESOURCES AND MINING RIGHTS

4. Custodianship of mineral resources

(1) Subject to subsection (2), mineral resources that are currently vested in the custodianship of the State under the Mineral and Petroleum Resources Development Act ("MPRDA") of 2002 shall remain in State custodianship for ten years while the practicability of restoring a system of private ownership, similar to that which pertained prior to the introduction of the MPRDA is investigated, along with the transitional arrangements that would be needed in making this change.

(2)Nothing in this Act affects the power of the State to regulate mining activities in the public interest, provided such regulation is consistent with this Act and does not amount to deprivation or expropriation inconsistent with Section 25 of the Constition.

(3)No provision of this Act may be construed as—

a. converting state custodianship of mineral resources into state ownership; or
b. authorising the State to allocate, suspend, cancel or reallocate mining rights other than in accordance with this Act.

5. Nature and status of mining rights

(1) A mining right granted under this Act is—

c. a real right capable of registration in the Deeds Registry;
d. transferable, divisible, and capable of being mortgaged, subject only to this Act; and

e. enforceable against the State and third parties.

(2) A mining right constitutes property for the purposes of section 25 of the Constitution.

(3) No mining right may be suspended, cancelled, materially varied, or rendered commercially unviable except in accordance with—

(a) this Act; and

(b) a decision that is lawful, reasonable, and procedurally fair, as confirmed, in cases of dispute, by the Independent Mining Tribunal, or the Independent Mining Appeals Tribunal.

(4) Any administrative act or regulatory instrument purporting to alter the substance, duration, or value of a mining right otherwise than in terms of this Act is invalid.

CHAPTER 3
GRANTING, CONTENT, AND SECURITY OF MINING RIGHTS

6. Eligibility to apply for mining rights

(1) Any natural or juristic person may apply for a mining right.

(2) No application may be refused on the basis of—

(a) the race, gender, or any other marker of the ethnic or social identity of the applicant or its shareholders;

(b) compliance or non-compliance with any race- or gender-based ownership, management, employment, or procurement requirement;

(c) the applicant's undertaking, or failure to undertake, any beneficiation, localisation, or downstream processing not required by this Act; or

(d) any consideration not expressly permitted by section 7.

(3) Any criterion not expressly listed in section 7 is excluded and may not be relied upon, whether directly or indirectly.

7. Mandatory grant of mining rights

(1) The Minister shall grant a mining right to an applicant who demonstrates, on a balance of probabilities, that the applicant—

(a) possesses or has secured access to adequate technical capacity to conduct the proposed mining operations safely and efficiently;

(b) possesses or has secured access to adequate financial resources to—

(i) develop and operate the mine;

(ii) comply with health, safety, and environmental obligations; and

(iii) rehabilitate and close the mine in accordance with this Act; and

(c) has submitted a Programme of Mining Operations that complies with section 8.

(2) The Minister may not—

(a) impose additional conditions not expressly authorised by this Act;

(b) require undertakings or compliance with rules relating to ownership, management, employment, procurement, beneficiation or localisation, beyond those provided for in this Act; or

(c) refuse an application on grounds of policy preference or public interest not codified in this Act.

(3) Where the requirements of subsection (1) are met, the Minister has no discretion to refuse the application.

8. Programme of Mining Operations

(1) A Programme of Mining Operations must include—
   (a) a technical description of the relevant mineral resources and the proposed mining methods and production profile;
   (b) a detailed capital and operating expenditure plan;
   (c) a mine health and safety plan addressing identified risks and mitigation measures;
   (d) an environmental management plan consistent with section 17;
   (e) a closure and rehabilitation plan including financial provision; and
   (f) an implementation timetable.

(2) The Programme must be certified by—
   (a) a professional engineer or geologist registered in terms of applicable law; and
   (b) an independent environmental assessment practitioner.

(3) Approval of a Programme of Mining Operations binds the State for the duration of the mining right, subject only to section 12.

9. Time limits, deemed approval, and consequences of delay

(1) The Minister must decide an application for a mining right within 90 days of submission of a complete application.

(2) Failure to decide within the prescribed period results in deemed approval of the mining right on the terms applied for.

(3) Where a deemed approval occurs—
   (a) the mining right is deemed to have been granted by operation of law; and
   (b) the applicant may register the right in the Deeds Registry.

(4) The State is liable for reasonably foreseeable losses caused by unlawful delay or refusal.

10. Duration and renewal of mining rights

(1) A mining right is granted for a period of **30 years**.

(2) A holder is entitled to renewal for further periods of 30 years if—
   (a) mining operations have been conducted in substantial compliance with the approved Programme of Mining Operations; and
   (b) the mineral resource or resources have not been exhausted.

(3) Renewal may not be made subject to additional ownership, management, employment, procurement, beneficiation, or localisation requirements introduced after the initial grant.

11. Security of tenure and limitation of cancellation powers

(1) A mining right may be suspended or cancelled only where—
   (a) the right was obtained through fraud, material misrepresentation or material non-disclosure;
   (b) there has been a wilful and material breach of this Act; or
   (c) mining operations have been abandoned for a continuous period of five years without reasonable cause.

(2) The burden of proof rests on the State.

(3) No suspension or cancellation may take effect unless—

(a) the holder has been given written notice of the alleged breach;
(b) a reasonable opportunity to remedy has been afforded; and
(c) the decision has been confirmed by the Independent Mining Tribunal or the Independent Mining Appeals Tribunal.

(4) Any suspension or cancellation contrary to this section constitutes an indirect expropriation for which compensation must be paid, as set out in Section 12 of this Act.

CHAPTER 4
PROTECTION AGAINST EXPROPRIATION AND STATE PARTICIPATION

12. Protection against direct and indirect expropriation

(1) No provision of this Act, and no power exercised under it, may be used to—
(a) directly or indirectly expropriate an associated or other mineral resource, a mining right, any incident of a mining right, mining land, mine tailings or any other mining property without just and equitable compensation, which must be based on market value and full compensation for all consequential losses;
(b) impose conditions which, in substance or effect, amount to a direct or indirect expropriation; or
(c) deprive a holder of the use, enjoyment, value, or commercial substance of a mineral resource, a mining right, mining land or other mining property in a manner that is equivalent to a direct or indirect expropriation.

(2) Any purported suspension, cancellation, variation, or conditional approval that—
(a) is not authorised by this Act; or
(b) materially undermines the commercial substance and value of a mineral resource or mining right,
constitutes an unlawful direct or indirect expropriation of property for the purposes of section 25 of the Constitution.

(3) In determining whether an act amounts to an expropriation under sub-section (1), the Independent Mining Tribunal (or the Independent Mining Appeals Tribunal) must have regard to—
(a) whether the state has curtailed or limited any of the normal rights and benefits of ownership of a mineral resource, a mining right, mining land or other mining property;
(b) the scale and irreversibility of mining investment;
(c) the long-horizon nature of mining finance; and
(d) the reliance placed by investors and lenders on promises of security of tenure;

(4) No regulation, guideline, charter, policy, or administrative practice may—
(a) create additional grounds for suspension or cancellation;
(b) introduce new ownership, management, employment, procurement, beneficiation or localisation obligations; or
(c) impose “continuing” compliance targets that require repeated transactions or other actions as a condition of retaining a mining right.

(5) Any attempt to achieve the outcomes prohibited in subsections (1) to (4) by indirect means, including by attaching conditions to renewal, transfer approval, or operational authorisations, is invalid.

13. Compensation and consequential loss where rights are taken or impaired

(1) Where a mineral resource or a mining right is expropriated, or where a measure taken amounts in substance to an expropriation, compensation must be—
   (a) prompt;
   (b) adequate; and
   (c) effective.

(2) For the purposes of subsection (1), "adequate" compensation must, at minimum, place the holder in a position no worse than would have applied had the expropriation not occurred, and must include—
   (a) the fair market value of the mineral resource(s) or mining right as at the date of expropriation;
   (b) the fair market value of any associated registrable interests lawfully created under this Act or other relevant legislation; and
   (c) proven consequential losses reasonably and foreseeably caused by the expropriation, including unavoidable closure and decommissioning costs.

(3) Compensation must be paid—
   (a) before ownership or possession is taken; or
   (b) where the Independent Mining Tribunal so orders in exceptional circumstances, into an escrow account or trust account under the control of that Tribunal, on terms that protect the holder against the risks of payment being delayed and which compensate the holder should this occur.

(4) Interest accrues on unpaid compensation at a rate not less than the prescribed rate applicable to judgment debts.

(5) Any dispute regarding the validity of a direct or indirect expropriation, or of the compensation payable, may be referred by the owner or holder to the Independent Mining Tribunal for urgent determination, and the State bears the onus of proof in seeking to establish the validity of the expropriation and in justifying any amount of compensation below fair market value and proven consequential losses, as set out in subsection (2) above.

(6) Nothing in this section prevents an owner of mineral resource(s) or the holder of a mining right from claiming damages arising from unlawful, unreasonable and/or procedurally unfair administrative action of any kind, whether involving delay, refusal, suspension, or cancellation.

14. State participation: optional paid working interest

(1) The State may elect to acquire, through a designated State participation entity, a working interest of not more than 15 per cent in any mining right granted under this Act.

(2) The election contemplated in subsection (1)—
   (a) is optional;
   (b) must be exercised within 12 months of the grant of the mining right;
   (c) lapses permanently if not exercised within that period; and
   (d) may not be revived on transfer, renewal, amendment, mortgaging or subdivision of the mining right.

(3) A State working interest acquired under this section—
   (a) is a purely economic interest proportionate to the percentage acquired;
   (b) does not confer operational control, veto rights, or additional regulatory powers; and

(c) may not be used to impose any ownership, management, employment, procurement, localisation or beneficiation requirements or conditions not contained in the initial mining right or authorised by this Act.

(4) The State must pay in full and with immediate effect for the acquisition of a working interest, failing which such in terest automatically terminates, and it may not receive any free carried interest.

(5) The consideration payable by the State for a working interest must be determined by agreement between the State participation entity and the holder, failing which it must be determined by an independent valuer appointed jointly by the parties, and must include—
(a) fair market value as at the date of the State's election; and
(b) where the mine has incurred development expenditure, the State's proportionate share of sunk and committed costs, discounted only to the extent that such costs are demonstrably unrecoverable in the normal course of mining operations.

(6) Upon acquisition, the State must contribute, on the same terms as other holders, its proportionate share of—
(a) capital expenditure;
(b) operating expenditure;
(c) closure and rehabilitation financial provision; and
(d) any other lawful costs necessarily incurred in conducting the approved Programme of Mining Operations.

(7) The State may dispose of its working interest—
(a) to the holder; or
(b) to any third party,
provided that such disposal does not create, directly or indirectly, any compulsory local ownership requirement or any other ownership requirement based on race, gender, or other markers of social and/or ethnic identity.

(8) The grant, renewal, validity, or continuation of a mining right may not be made conditional upon the State exercising, or threatening to exercise, the option in subsection (1), nor may the mining right be affected in any way if the State declines to exercise its option.

CHAPTER 5
TRANSFERABILITY, FINANCING, AND ADMINISTRATIVE TRANSPARENCY

15. Transferability, subdivision, consolidation, and registration of mining rights

(1) A mining right granted under this Act may be transferred, ceded, mortgaged or otherwise used as security for a loan, subdivided, consolidated, or otherwise disposed of, in whole or in part, subject only to this section.

(2) The Minister shall approve a transfer, cession, mortgage, subdivision, or consolidation if the proposed transferee or resulting holder demonstrates, on a balance of probabilities, that it meets the requirements in section 7(1)(a) and (b), and undertakes in writing to comply with the approved Programme of Mining Operations or any lawful amendment of this Programme under this Act.

(3) No transfer, cession, mortgaging, subdivision, or consolidation may be refused on the basis of any factor excluded by section 6(2), and in particular may not be refused on the basis of any requirement relating to race, gender, or other markers of social and/or ethnic identity; any ownership, management, employment, procurement, beneficiation,

localisation or other targets; any social and labour plans, or any other instruments purporting to introduce requirements of this kind.

(4) The Minister may impose no conditions on an approval under subsection (2) other than conditions strictly necessary to ensure continuity of compliance with this Act and the approved Programme of Mining Operations.

(5) The Minister must decide an application for approval under this section within 30 days of submission of a complete application.

(6) Failure to decide within the period in subsection (5) results in deemed approval by operation of law.

(7) Upon approval or deemed approval, the right, or the relevant portion of the right, must be registrable without delay in the Deeds Registry, and the Registrar of Mining Rights must issue all certificates and endorsements necessary to complete registration within 10 days.

(8) Any refusal by the Minister must be accompanied by written reasons that identify, with particularity, which objective requirement in section 7(1) has not been met, and provide comprehensive evidence to substantiate this assessment.

(9) A refusal or conditional approval which is not authorised by this Act is invalid and may be referred to the Independent Mining Tribunal.

16. Encumbrance, project finance, lender protections, and continuity of operations

(1) A mining right may be encumbered by a mortgage bond, notarial bond, pledge, cession in *securitatem debiti*, or any other recognised security interest as security for any loan to finance exploration, development, mechanisation, safety enhancement, environmental compliance, rehabilitation, and mine closure.

(2) No person or organ of state may restrict, prohibit, or materially impair the creation, perfection, or enforcement of a mortgage bond or other lawful security instrument over a mining right, except as expressly provided in this section.

(3) The holder of a mining right must notify the Registrar of Mining Rights of any material encumbrance, and the Registrar must record the encumbrance in the cadastre and the Deeds Registry, subject to protection of confidential commercial terms as provided in section 17(11).

(4) Where a holder defaults under a secured financing arrangement, a secured creditor may enforce its security by one or more of the following means, subject to subsection (5):

  (a) sale in execution;

  (b) private sale authorised by the Independent Mining Tribunal;

  (c) substitution of the holder by a nominee approved under subsection (5); or

  (d) temporary step-in to cure default and preserve operations, including to maintain safety, environmental compliance, and the integrity of the mine.

(5) The Minister shall approve the substitution of a holder by a secured creditor or nominee if the proposed substitute meets the requirements in section 7(1)(a) and (b) and undertakes in writing to comply with this Act and the approved Programme of Mining Operations.

(6) The Minister must decide an application under subsection (5) within 15 days, failing which the substitution is deemed approved.

(7) No step-in, enforcement, substitution, or restructuring may be refused, delayed, or subjected to additional conditions on grounds not expressly permitted by this Act, including any ground excluded by section 6(2).

(8) In the event of business rescue, liquidation, sequestration, or any analogous insolvency process affecting a holder, the primary purpose of the State in relation to the mining right is to preserve the continuity of lawful operations and the value of the asset for the benefit of employees and creditors, and to help secure rehabilitation funding, and any action taken by the State must be consistent with that purpose.

(9) No mining right may be cancelled, suspended, or rendered commercially unviable solely by reason of insolvency, business rescue, or restructuring, provided that the mine continues to comply with operational, health, safety, environmental, and closure funding obligations, and provided further that a compliant substitute holder can be approved under subsection (5).

(10) Where a mining right is transferred in an insolvency process, the Minister shall apply section 15 as if the transferee were an ordinary applicant and must decide the matter within the time limits stated in this Act. Any attempt to use financing approvals, enforcement processes, or insolvency events as leverage to impose ownership, management, employment, procurement, beneficiation, or localisation targets, or any other obligations not authorised by this Act, is invalid and constitutes an indirect expropriation of property for which compensation must be paid under Section 13.

17. National mining cadastre, transparency, reasons, and anti-corruption safeguards

(1) The State shall establish, maintain, and continuously update a single national mining cadastre.

(2) The cadastre must be digital, publicly accessible without charge, and capable of being searched and displayed by map, coordinates, farm or other erf description, mineral type, applicant, holder, and status.

(3) The cadastre must record, at minimum, the following for all mineral resources, for each application for a mining right and for each granted mining right:
   (a) the identity of the applicant or holder;
   (b) the mineral resource(s) and their geographic location and extent;
   (c) the date and time of lodgement;
   (d) the complete status history, including all steps taken and decisions made;
   (e) all deadlines applicable under this Act;
   (f) whether deemed approval has occurred;
   (g) the final decision made and written reasons provided; and
   (h) any registered encumbrance (to be described in general terms).

(4) All applications for mining rights and all applications for approval under section 15 or section 16 must be lodged through the cadastre alone, and no application is validly lodged unless the cadastre issues an automated lodgement receipt with a date and time stamp.

(5) The cadastre must provide a transparent, time-stamped queue, and the State may not allocate or process applications outside that queue and must assess and grant or refuse applications on a first-come-first-served basis.

(6) If an application is rejected as incomplete, the State must, within 5 days, provide written notice identifying each missing item with precision, and must not demand information or undertakings not authorised by this Act.

(7) Every decision under this Act must be published on the cadastre within 48 hours of being made, together with the written reasons required by this Act.

(8) Where this Act requires a decision within a specified period, the cadastre must automatically display the countdown to expiry and must record when deemed approval has occurred.

(9) The Minister must publish, quarterly, a performance report showing, at minimum:
   (a) the number of applications lodged;
   (b) the number decided within time limits;
   (c) the number refused and the grounds for refusal;
   (d) the number of deemed approvals; and
   (e) the median and maximum decision times.

(10) Any official involved in the processing or decision of an application under this Act must file, and update whenever appropriate, a written conflict-of-interest declaration recorded on the cadastre, and any official with a conflict of interest must recuse himself or herself.

(11) The cadastre must protect confidential geological data and confidential financing terms for a limited period prescribed by regulation, provided that such protection may not be used to conceal the identity of applicants or holders, the extent of rights, the fact of encumbrance, or the reasons for administrative decisions.

(12) Any person who knowingly manipulates the cadastre, alters time stamps, processes an application out of queue for improper purposes, suppresses reasons, or solicits or accepts any benefit to influence an outcome commits an offence and is liable on conviction to a fine or imprisonment not exceeding 15 years, or both.

(13) A mining right granted in consequence of a proven cadastre manipulation, bribery, or material conflict of interest is voidable on application to the Independent Mining Tribunal (or the Independent Mining Appeals Tribunal), provided that this Tribunal (or the Independent Mining Appeals Tribunal) must, in that event, make an order that protects innocent employees and creditors, preserves rehabilitation funding and, where reasonably possible, preserves continuity of mining operations through substitution under section 16.

CHAPTER 6
DISPUTE RESOLUTION AND ABOLITION OF PARALLEL REGIMES

18. Independent Mining Tribunal

(1) An independent body to be known as the Independent Mining Tribunal is hereby established.

(2) The Tribunal is independent and subject only to the Constitution and the law, and must exercise its powers impartially and without fear, favour, or prejudice.

(3) The Tribunal has jurisdiction to hear and determine, on an urgent basis—
   (a) appeals against refusals, conditional approvals, suspensions, or cancellations of mining rights;
   (b) disputes concerning deemed approvals under this Act;

(c) challenges to administrative delays, including failures to comply with statutory time limits;
(d) disputes arising from transfer, encumbrance, or substitution applications under sections 15 and 16;
(e) disputes relating to the operation or manipulation of the cadastre; and
(f) any matter expressly referred to it under this Act.

(4) The Tribunal consists of—
(a) a Chairperson, who must be a judge or former judge, or a senior advocate with at least fifteen years' experience in administrative or commercial law; and
(b) not fewer than four and not more than eight additional members appointed for their expertise in mining, finance, environmental law, or labour and mine safety regulation.

(5) Members of the Tribunal are appointed for fixed terms and may be removed only for incapacity, misconduct, or incompetence, following a transparent process.

(6) Proceedings before the Tribunal must—
(a) be conducted with minimal formality;
(b) prioritise written submissions and documentary evidence, which must be admitted or rejected in keeping with established common law and statutory rules;
(c) allow for urgent interim relief; and
(d) be concluded within 30 days, save in exceptional circumstances, and be recorded in writing.

(7) The Tribunal may—
(a) confirm, set aside, or substitute any decision under this Act;
(b) order the grant, renewal, transfer, or registration of a mining right;
(c) declare that deemed approval has occurred and direct registration must be effected;
(d) award costs, including punitive costs, against the State where its conduct has been unreasonable or obstructive; and
(e) grant any ancillary relief necessary to give effect to this Act.

(8) Decisions of the Tribunal are binding, subject only to appeal to the Independent Mining Appeals Tribunal or to a local or international arbitrator agreed by the parties.

(9) No decision under this Act may be insulated from review by the Tribunal by statute, regulation, policy, or contractual provision.

19. Prohibition of mining charters, race-based instruments, and parallel regulatory regimes

(1) No mining charter, scorecard, code of practice, guideline, or policy instrument purporting to impose—
(a) ownership requirements based on race, gender or any other marker of social and/or ethnic identity;
(b) demographic representivity targets;
(c) compulsory ownership, management, employment, or procurement targets based on race, gender, sex or other markers of social and/or ethnic identity; or
(d) any continuing compliance obligation linked to racial classification,
has any force or effect in law.

(2) Without limiting subsection (1), the Mining Charter developed under Section 100 of the MPRDA, in any form or version, is hereby abolished and repealed.

(3) No organ of state may—
   (a) issue or apply any charter or instrument contemplated in subsection (1);
   (b) condition the grant, renewal, transfer, or continuation of a mining right on compliance with any such instrument; or
   (c) rely on any such instrument, whether directly or indirectly, in administrative decision-making.
(4) Any condition, undertaking, or obligation purporting to give effect to a charter or any other instrument prohibited under sub-section 1—
   (a) is void; and
   (b) may not be enforced against a holder, whether by the State or by any third party.
(5) No regulation may be made under this Act that—
   (a) re-introduces ownership, management, employment, procurement, beneficiation, and localisation targets, social and labour plans, and analogous obligations under another name; or
   (b) confers on the Minister any discretionary power to impose such requirements.
(6) Any attempt to achieve the outcomes prohibited by this section through—
   (a) licence conditions;
   (b) renewal requirements;
   (c) transfer approvals;
   (d) environmental authorisations; or
   (e) safety enforcement mechanisms,
   is unlawful and invalid.

20. Exclusivity of Economic Empowerment for the Disadvantaged (EED) in mining

(1) Economic Empowerment for the Disadvantaged (EED) is the sole empowerment framework applicable to mining rights under this Act.
(2) No holder of a mining right may be compelled, whether by statute, regulation, licence condition, or administrative practice, to comply with any empowerment framework other than EED.
(3) Participation in EED—
   (a) is voluntary;
   (b) is incentive-based; and
   (c) does not constitute a precondition for the grant, renewal, transfer, or retention of a mining right.
(4) Compliance with, or participation in, EED—
   (a) may not be used to justify additional regulatory burdens;
   (b) may not be converted into mandatory targets by regulation; and
   (c) may not be retrospectively altered to impose new obligations.
(5) The Mining-Specific EED Scorecard set out in Schedule 1 has legal recognition for the purposes of—
   (a) voluntary reporting;
   (b) providing transparency to investors, employees, and communities; and
   (c) assessing eligibility for any EED awards or other incentives lawfully created by Parliament,
   but confers no coercive power on the State.

(6) No court, tribunal, or administrative body may interpret this Act so as to revive race-based empowerment obligations, whether by reference to prior legislation, policy history, or race-based transformation objectives.

CHAPTER 7
MINE HEALTH AND SAFETY REFORM

21. Mine health and safety: general duties and regulatory approach

(1) Every holder of a mining right must ensure, so far as is reasonably practicable, that mining operations are conducted in a manner that protects the health and safety of employees and other persons lawfully present on mine premises or participating in mining activities.

(2) In interpreting and applying subsection (1), due regard must be had to—
(a) all relevant scientific and technical knowledge;
(b) the availability and economic feasibility of risk-reducing measures;
(c) the scale, depth, and geological characteristics of the mineral resources; and
(d) the importance of mobilising capital investment for mechanisation, modernisation, and innovation as a primary means of reducing exposure to high-risk conditions.

(3) Mine health and safety regulation under this Act must—
(a) prioritise outcome-based standards over prescriptive rules;
(b) encourage the adoption of technologies that reduce human exposure to hazardous environments; and
(c) avoid regulatory practices that deter investment in safety-enhancing capital expenditure.

(4) No regulation, guideline, or enforcement practice may impose a standard of absolute safety or "zero risk" that is technologically or economically unattainable, or that might reasonably be expected to result in mine closure or abandonment without adequate safety-related reasons.

22. Proportional and rational safety stoppages

(1) A safety inspector may order the suspension of mining operations only to the extent necessary to address a specific, identified, and immediate risk to health or safety.

(2) Any stoppage order must—
(a) be limited to the area, activity, or equipment giving rise to the risk;
(b) specify the precise nature of the risk and the focused measures required to address it; and
(c) state the factual and technical basis for the decision.

(3) Blanket, mine-wide stoppages are prohibited unless—
(a) the risk affects the mine as a whole; and
(b) no lesser measure would reasonably address the risk.

(4) A stoppage order lapses automatically after 72 hours unless confirmed by the Independent Mining Tribunal upon application by a safety inspector.

(5) The holder may apply to the Tribunal at any time for—
(a) variation or lifting of a stoppage; or
(b) a declaration that the stoppage is disproportionate or unlawful.

(6) Where the Tribunal finds that a stoppage is disproportionate, irrational, or not supported by evidence—

(a) the stoppage must be lifted immediately; and

(b) the State is liable for reasonably foreseeable losses caused by the unlawful stoppage, including all the costs involved in restarting mining operations following the stoppage.

(7) Repeated or systemic issuance of unlawful stoppages by a health inspector constitutes misconduct and provides grounds for disciplinary action and appropriate penalties as regards that inspector, including financial ones.

23. Incentives for mechanisation, modernisation, and innovation

(1) The Minister responsible for mineral resources, in consultation with the Minister responsible for finance, must establish regulatory and fiscal incentives to promote—
   (a) mechanisation of high-risk mining activities;
   (b) automation and remote operation technologies;
   (c) improved monitoring, data analytics, and early-warning systems; and
   (d) other innovations demonstrably capable of reducing the exposure of mineworkers to hazardous conditions.

(2) Incentives contemplated in subsection (1) may include—
   (a) accelerated depreciation allowances;
   (b) streamlined approval for safety-enhancing modifications; and
   (c) recognition of contributions made under the EED scorecard.

(3) No regulation or enforcement practice may penalise a holder for adopting mechanisation or automation solely to reduce the number of mineworkers exposed to mine safety risks, provided that the holder complies with applicable labour law.

24. Occupational diseases and compensation integration

(1) The State must establish a unified, statutory system for the compensation of occupational lung diseases arising from mining that—
   (a) provides benefits equivalent to those available under the Compensation for Occupational Injuries and Diseases Act;
   (b) ensures timely diagnosis, treatment, and compensation; and
   (c) avoids duplication, delay, and administrative complexity.

(2) Required contributions to the system and annual increases in such contributions must be—
   (a) Objectively justifiable and generally in line with annual increases in consumer price inflation rates;
   (b) actuarially sound; and
   (c) capable of being factored into long-term mine planning and financing.

(3) Compliance with the unified system discharges the holder from any parallel statutory or common law obligation to provide compensation for the same occupational disease.

CHAPTER 8
ENVIRONMENTAL REGULATION AND MINE CLOSURE

25. Environmental regulation: goal setting and integration

(1) Environmental regulation applicable to mining under this Act must adopt a goal-setting approach, specifying environmental objectives to be achieved while allowing flexibility to holders as to the best means of fulfilling those objectives.

(2) Environmental standards must—
(a) be scientifically grounded;
(b) be proportionate to risk;
(c) take account of economic feasibility; and
(d) be stable and predictable over the life of a mining right.
(3) No regulation may prescribe the use of specific technologies or methods unless—
(a) no reasonable alternative exists; and
(b) the prescription is justified by compelling environmental necessity.
(4) Environmental authorisation for mining must, to the greatest extent practicable, be integrated with the approval of the Programme of Mining Operations, and duplicate assessments are generally prohibited, save in exceptional circumstances where this may be unavoidable or otherwise warranted.

26. Financial provision, closure, and rehabilitation
(1) A holder must make financial provision sufficient to ensure the rehabilitation and closure of the mine in accordance with approved environmental objectives.
(2) Financial provision must—
(a) be objectively calculated based on realistic annual remediation and final closure requirements;
(b) be capable of independent verification; and
(c) be reviewable periodically to reflect changes in mining operations, available technologies, progress made in remediation, and other relevant factors.
(3) Financial provision may take the form of—
(a) cash deposits;
(b) guarantees;
(c) insurance instruments; or
(d) other instruments approved by regulation,
provided that the form chosen does not unnecessarily immobilise capital.

27. Clean break and finality of environmental liability
(1) Upon completion of rehabilitation in accordance with the approved closure plan, and certification by an independent expert accredited under this Act, the holder is entitled to a clean closure certificate.
(2) Upon issuance of a clean closure certificate—
(a) all statutory environmental obligations relating to earlier mining operations are discharged; and
(b) no further environmental liability attaches to the holder in respect of the closed mine, save as provided in subsection (4).
(3) No regulation, guideline, or administrative act may—
(a) re-open environmental liability after closure; or
(b) impose new or continuing obligations inconsistent with this section.
(4) Latent, residual or unforeseen environmental impacts discovered after closure must be addressed through the pooled remediation fund established under section 28.

28. Pooled remediation fund for residual impacts

(1) A national pooled remediation fund is hereby established to address residual environmental impacts that—
  (a) manifest after clean closure;
  (b) cannot reasonably be attributed to fault or non-compliance by a particular holder; or
  (c) derive from historical mine closures implemented without adequate environmental remediation.
(2) Contributions to the fund must—
  (a) be proportionate to risk;
  (b) be predictable and capped; and
  (c) not substitute for site-specific financial provision under section 26.
(3) The fund may not be used to—
  (a) reopen closed mines
  (b) impose retroactive liability; or
  (c) finance general environmental obligations of the State.

CHAPTER 9
TRANSITIONAL ARRANGEMENTS

29. Transitional conversion of existing mining rights

(1) Any mining right validly granted under prior mining legislation and in force immediately before the commencement of this Act is automatically converted, by operation of law, into a mining right under this Act.
(2) Upon conversion—
  (a) the converted mining right is deemed to have been granted on the commencement date of this Act;
  (b) the duration of the converted right is deemed to be 30 years from the commencement date; and
  (c) the holder is entitled to all rights, protections, and benefits conferred by this Act, including security of tenure and transferability.
(3) No converted mining right is subject to—
  (a) ownership, management, employment, procurement, beneficiation, or localisation requirements imposed under prior laws, charters or other instruments;
  (b) continuing empowerment obligations under any version of the Mining Charter or any similar laws, charters or other instruments; or
  (c) any statute, charter, code, guideline, or policy instrument repealed or rendered invalid by this Act.
(4) Within six months of commencement, the holder of a converted mining right must submit—
  (a) a Programme of Mining Operations compliant with this Act; and
  (b) an updated closure and rehabilitation plan consistent with sections 26 and 27.
(5) Failure to submit the information required by subsection (4) may result only in—
  (a) an order by the Independent Mining Tribunal directing compliance within a specified period, not exceeding 30 days; and
  (b) no suspension or cancellation unless there is wilful and material non-compliance.
(6) No converted mining right may be cancelled, suspended, or made subject to additional conditions based solely on non-compliance with repealed legislation or policy.

30. Pending applications and proceedings

(1) Any application for a mining right, transfer, renewal, or amendment pending immediately before the commencement of this Act must be determined exclusively in accordance with this Act.

(2) Any requirement, condition, or criterion imposed under prior laws, charters or instruments that are inconsistent with this Act are void and may not be applied to a pending application.

(3) Any appeal, review, or enforcement proceeding pending immediately before commencement—

(a) continues under this Act; and

(b) falls within the jurisdiction of the Independent Mining Tribunal, unless it is already being heard by a court.

(4) No applicant or holder may be prejudiced by delay, refusal, or inaction attributable to the State prior to the commencement of this Act, and deemed-approval provisions apply from the commencement date.

CHAPTER 10
REPEALS AND REGULATIONS

31. Repeal of laws and abolition of parallel regimes

(1) The following are hereby repealed in their entirety, to the extent that they apply to mining rights:

(a) the Mineral and Petroleum Resources Development Act, 2002 ("the 2002 Act");

(b) the Mining Charter, in any form or version; and

(c) any regulation, guideline, code, social and labour plan or other policy instrument issued under the 2002 Act that is inconsistent with this Act.

(2) No provision of any repealed law, regulation or policy instrument survives as a "saving", transitional measure, or interpretive aid, except as expressly provided in this Act.

(3) Any attempt to enforce repealed laws, regulations or policy instruments after commencement constitutes unlawful administrative action.

32. Regulations

(1) The Minister may make regulations only so as to give effect to this Act.

(2) Regulations may not—

(a) confer discretionary powers not expressly authorised by this Act;

(b) introduce new ownership, management, employment, procurement, beneficiation, or localisation requirements or social and labour plan obligations;

(c) revive or replicate repealed instruments under another name; or

(d) undermine security of tenure, deemed approval, or clean-closure provisions.

(3) Any regulation inconsistent with this Act is invalid.

(4) Draft regulations must be—

(a) published for public comment for not less than 60 days; and

(b) accompanied by a statement explaining how the regulation complies with the objects of this Act and providing a comprehensive socio-economic assessment of its likely costs and consequences.

CHAPTER 11
SHORT TITLE AND COMMENCEMENT

33. Short title and commencement

This Act is called the Fairness, Growth, and Jobs in Mining Bill, and comes into operation on a date fixed by the President by proclamation in the Gazette, which date may not be later than six months after the date of assent.

SCHEDULE A
MINING-SPECIFIC ECONOMIC EMPOWERMENT FOR THE DISADVANTAGED (EED) SCORECARD

For ideas on other possible elements and scoring, see Key Elements in a Mining EED Scorecard

Core principles:

- Non-racial
- Growth-focused
- Performance-based
- Voluntary
- Transparent

Indicative EED contribution categories (weighted):

1. **Investment, production and value addition**
   – Exploration expenditure
   – Mine development and expansion
   – Mechanisation and modernisation
   - Production and value addition via processing or other beneficiation

2. **Employment, earnings and dividend**s
   – Jobs sustained or created
   – Wage growth, especially at lower income levels
   – Employee share ownership schemes (with enhanced weighting for lower-paid workers)
   -- Dividends paid

3. **Skills, training, and innovation**
   – Training
   – Research and development
   – Adoption of safety-enhancing and productivity-enhancing technologies

4. **Health and safety outcome**s
   – Maintainance of a reasonably safe working environment
   -Reduction in injuries and fatalities
   – Adoption of risk-reducing technologies
   – Introduction of verified safety innovations
   -- Partnering with other mines and private security personnel to counter illegal mining

5. **Environmental performance**
   – Fulfilment of annual rehabilitation obligations
   – Fulfilment of closure obligations
   – Increases in water, energy, and waste efficiency
   – Promotion of post-closure land reuse initiatives

6. **Fiscal and economic contributio**n
   – Taxes, royalties, and other levies paid
   – Contributions to export earnings and foreign exchange inflows

7. **Direct upliftment of the disadvantage**d
   – Making voluntary top-up contributions to education, housing, and health vouchers in mining communities
   – Helping to improve infrastructure linked to mine operations

(Detailed weighting, scoring, and reporting standards to be prescribed by Parliament, not regulation.)

MEMORANDUM ON THE OBJECTS OF THE MINERAL RESOURCES AND MINING RIGHTS BILL, 2026

1. Background and Rationale

This Bill seeks to repeal and replace the Mineral and Petroleum Resources Development Act, 2002, the Mining Charter, and related instruments that have established State custodianship of mineral resources, discretionary licensing powers, and race-based empowerment requirements in mining.

Since the introduction of custodianship, South Africa has experienced declining mining investment, particularly in mineral exploration, alongside prolonged regulatory delays, legal uncertainty, and repeated policy changes. These developments have undermined security of tenure, raised the cost of capital, deterred long-term investment, and constrained the growth, employment, safety improvements, and environmental rehabilitation that depend on sustained capital formation in mining.

The Bill replaces this failed framework with a property-based, market-compatible mineral resources and mining rights regime grounded in constitutional protections for property, lawful and reasonable administrative action, and the rule of law. It seeks to restore South Africa as a competitive mining jurisdiction capable of attracting long-term investment while strengthening mine safety, environmental outcomes, and genuine empowerment through growth rather than racial compulsion.

2. Summary of the Bill

Repeal and Replacement of Custodianship Regime:
Repeals the MPRDA, the Mining Charter, and related instruments to the extent that they apply to mining rights, and abolishes State custodianship of mineral resources, replacing it with a clear distinction between private or state ownership of mineral resources and the exercise of regulatory authority over the granting of mining rights.

Objective and Mandatory Licensing:
Establishes an objective, transparent, and time-bound system for granting mining rights based on technical capacity, financial capacity, and an approved Programme of Mining Operations, with deemed approval where statutory time limits are not met.

Security of Tenure and Protection Against Regulatory Takings:
Provides strong statutory protection for mining rights as registrable property, limits cancellation or suspension to narrowly defined grounds, and introduces an expropriation firewall to prevent indirect or regulatory takings without compensation.

State Participation on Commercial Terms:
Permits limited, optional State participation through a paid working interest of up to 15%, elected once only and funded on commercial terms, without free carry, operational control, or ownership targets.

Replacement of Race-Based Empowerment:
Abolishes race-based empowerment requirements in mining and replaces them with Economic Empowerment for the Disadvantaged (EED), a non-racial, voluntary, performance-based framework that rewards investment, employment, skills development, safety innovation, environmental performance, and direct upliftment.

Mine Health and Safety Reform:
Introduces proportional, evidence-based safety regulation, limits blanket stoppages, provides for independent review of enforcement actions, and promotes mechanisation and innovation as core safety strategies.

Environmental Regulation and Mine Closure:
Adopts outcome-based, goal-setting environmental standards, integrates authorisations, provides for realistic and financeable closure provision, establishes a clean-break closure certificate, and creates a pooled remediation fund for residual environmental impacts.

Transparent Administration and Dispute Resolution:
Establishes a public digital mining cadastre, strict publication and transparency requirements, and an independent Mining Tribunal for expedited resolution of disputes.

Transitional Arrangements:
We need more on restoration of ownership of mineral resources, how this will be done and how the transition will take place, if this is to be included.
Automatically converts existing mining rights into rights under the new Act, removes charter-based obligations, and provides clear transitional rules for pending applications and proceedings.

3. Financial Implications

The Bill does not require new general taxation. Its fiscal effects arise primarily from improved investment conditions, increased exploration and production, higher employment, and enhanced tax and royalty revenues over time.

State participation in mining operations is optional and fully paid, avoiding contingent fiscal liabilities. Environmental and occupational disease obligations are structured to be predictable and financeable, supporting long-term planning and reducing systemic risk.

4. Constitutional Implications

The Bill aligns with sections 1, 22, 25, 33, and 195 of the Constitution by promoting non-racialism, protecting property against unlawful deprivation and expropriation, ensuring lawful, reasonable, and procedurally fair administrative action, and enhancing transparency and accountability in public administration.

By abolishing race-based empowerment requirements and discretionary custodianship, the Bill gives practical effect to the Constitution's founding values of non-racialism, human dignity, equality before the law, and the supremacy of the rule of law.

5. Consultation

The Minister must consult relevant departments, including National Treasury, provincial administrations, organised labour, mining industry stakeholders, environmental experts, and civil society organisations on the technical implementation of the Act, particularly in relation to the cadastre, safety enforcement procedures, and environmental closure standards.

6. Parliamentary Procedure

The Bill must be introduced, debated, and passed in accordance with the Constitution and the Joint Rules of Parliament. The Bill provides for transitional arrangements to ensure continuity of operations while shifting to the new legal framework.

7. Additional Socio-Economic Impact Assessment (SEIA)

Within 12 months of commencement, an additional Socio-Economic Impact Assessment must be undertaken to evaluate the Act's effects on mining investment, employment, safety outcomes, environmental rehabilitation, and the advancement of the disadvantaged through growth and employment, with findings to inform any future legislative refinement.