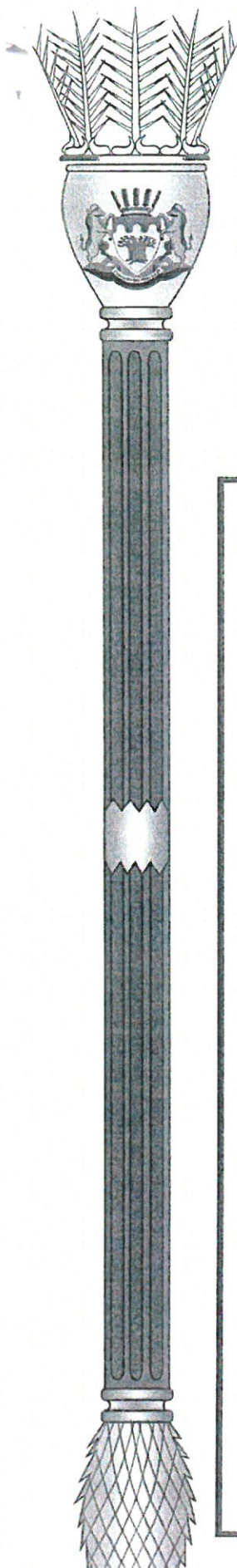


*Limpopo*

# NEGOTIATING MANDATE



# Limpopo Legislature

## OFFICE OF THE SECRETARY

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0700

### NEGOTIATING MANDATE

To : The Chairperson: SC on Land and Mineral  
Resources

Name of Bill : Mineral and Petroleum Resources Development  
Amendment Bill

Number of the Bill : [B15D - 2013]

Date of Deliberation : 02 May 2017

Vote of the Legislature : Provincial NCOP Permanent Delegates to consider  
inputs by stakeholders and to negotiate in favour of  
the Bill.

HON. F.T. DAU  
CHAIRPERSON

PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT AND  
TOURISM  
LIMPOPO LEGISLATURE

02/05/2017  
DATE

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**REPORT OF THE PORTFOLIO COMMITTEE ON ECONOMIC  
DEVELOPMENT, ENVIRONMENT AND TOURISM ON THE MINERAL  
AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL [B  
15D – 2013]**

**1. INTRODUCTION**

Mineral and Petroleum Resources Development Amendment Bill [B 15D- 2013] was introduced in the august House from the National Council of Provinces (NCOP) and the Bill was subsequently referred to the Portfolio Committee on Economic Development ,Environment and Tourism for consideration and inputs.

**2. OBJECTS OF THE BILL**

The main objects of the Bill are therefore to amend the Mineral and Petroleum Resources Development Act, 2002, as amended by the Mineral and Petroleum Resources Development Act, 2008 (Act No. 49 of 2008); so as to remove ambiguities that exist within the Act; to provide for the regulation of associated minerals, partition of rights and enhance provisions relating to the regulation of the mining industry through beneficiation of minerals or mineral products; to promote national energy security; to streamline administrative processes; to align the Mineral and Petroleum Resources Development Act with the Geoscience Act, 1993 (Act No. 100 of 1993), as amended by the Geoscience Amendment Act, 2010 (Act No. 16 of 2010) ; to provide for enhanced sanctions; to improve the regulatory system; and to provide for matters connected therewith.

**3. CONSIDERATION OF THE BILL**

The Committee was briefed by the National Council of Provinces permanent delegate Hon. Smith together with officials from the National Department of Mineral Resources on the 17<sup>th</sup> February 2017. The Committee resolved in this meeting to conduct Public Hearings at all provincial districts namely Capricorn, Waterberg, Sekhukhune, Vhembe and Mopani. The Public Hearings were conducted on the 18<sup>th</sup> & 22<sup>nd</sup> March at Lebowakgomo legislative chamber and Thohoyandou Sport and Cultural Centre respectively.

#### **4. STAKEHOLDER'S PARTICIPATION AT THE PUBLIC HEARING**

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

##### **Clause 1**

(k) It is suggested that the definition of historically disadvantaged South African must refer specifically to a Black person or community disadvantaged by unfair discrimination before the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), came into operation.

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

##### **Clause 2**

\* (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 resources. (Retain specific reference to women as in the principal act)

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

##### **Clause 5**

It is suggested that the following provision be inserted in section 9: "If the application received relates to communal and state land, then the application must be kept in abeyance until a determination is made whether or not the lawful occupiers of the land in question or communities communally owning the land in terms of customary land tenure are interested in lodging a competitive application in terms of section 104 of the MPRDA for the same mineral, associated minerals and any other mineral found in their land".

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

##### **Clause 6 subsection 1**

\* Consultation with interested and affected parties should include the Minister for Department of Rural Development and Land Reform as custodian and trustee of communal land since most minerals are in communal land.

#### **Clause 6 subsection 2**

\* With regard to the process of prospecting rights, it is suggested the number of days be extended from 30 to 90 days to enable effective community involvement in the public participation process.

#### **Clause 6 subsection 3**

(a)The DMR, should ensure that the applicant has the relevant community's Traditional Council Resolution as proof of consultation and Minister's approval before being given the mining right. In terms of public consultation before awarding the rights the department should also consider the inputs of the relevant community.

(b)There is a need for proper consultation before granting mining rights especially where there is intention to mine on land with unresolved land claims issues. The bill has to take into consideration the customary land ownership

\* (c)Section 10(2)(b) insertion of the following "...; provided that consultation with informal or customary land rights holders shall be in accordance with the holders' living customary law and in compliance with prescribed procedures and ministerial consent by the Minister of Rural Development and Land Reform".

**Amendment of section 22 of act 28 of 2002, as amended by section 18 0 of Act 49 of 2008**

#### **Clause 17**

The Environmental Management Plans and Social Labour Plans must be developed and be availed to communities so that they can participate in monitoring the progress of their implementation by mining houses.



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

**Clause 18**

The department should consider the input of the community on the report of the mining house on the implementation of the Social and Labour Plans before renewing mining rights.

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

**Clause 29**

Environmental management plans should be publicized and distributed to empower monitoring of environmental impact of mining by affected communities.

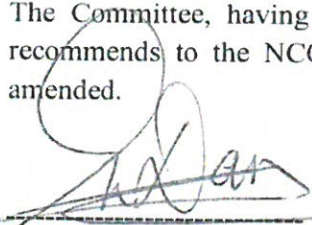
Insertion of 56A,56B,56C,56D,56E,56F,56G of Act 28 of 2002

**Clause 44**

Section 56A should provide that the Minister also appoints to the Ministerial Advisory Council, representative members from directly affected communities who are not employed by a mining company.

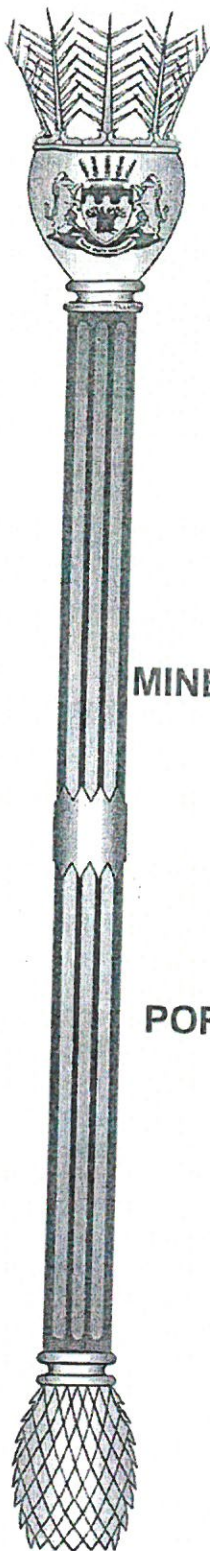
**5. NEGOTIATING MANDATE**

The Committee, having considered the Bill and proposed amendments therefore recommends to the NCOP Permanent Delegates to vote in favour of the Bill as amended.



HON. F.T. DAU  
CHAIRPERSON  
PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT,  
ENVIRONMENT AND TOURISM  
LIMPOPO PROVINCIAL LEGISLATURE

**REPORT OF  
PUBLIC  
HEARINGS**



# **LIMPOPO LEGISLATURE**

## **OFFICE OF THE SECRETARY**

Physical Address:  
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### **REPORT ON THE PUBLIC HEARING**

### **FOR THE**

### **MINERAL AND PETROLEUM RESOURCES DEVELOPMENT**

### **AMENDMENT BILL 15 of 2013 (MPRDA)**

### **(B 15D- 2013)**

**PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT,  
ENVIRONMENT AND TOURISM**

**MARCH 2017**

**LIMPOPO PROVINCIAL LEGISLATURE**



## 1. BACKGROUND

The Department of Minerals Resources is in the process of finalizing the Minerals and Petroleum Resources Development Amendment Bill, Development Agency Bill, 2016, and in accordance with the processes Limpopo Legislature is conducting public hearings for the Bill. The Limpopo Legislature is guided by the Section 118 of the constitution which requires that members of the public be consulted when making laws. It is for this reason that the Portfolio Committee on Economic Development, Environment and Tourism organized the Public Hearings. The purpose of the Public Hearings was to get input from the public and stakeholders on the Minerals and Petroleum Resources Development Amendment Bill, 2013.

## 2. PROCESS

Prior to the public hearings, the bill was introduced to the Portfolio Committee by the National Department of Mineral Resources and National Council of Provinces for stakeholder consultation in the province. The public hearings were hosted in two different dates in order to accommodate different communities: namely; on 17 March 2017 at the Limpopo Legislature, public hearing for stakeholders and mining communities around Waterberg, Sekhukhune and Capricorn District. Then on 22 March 2017, the public Hearings were held in Thohoyandou for the stakeholders and mining communities from Mopani and Vhembe Districts. The stakeholders were given two weeks to submit their written submissions, pending consultation with the communities they represent. Amongst the public stakeholders, there were mainly representatives from mining communities groups; mining houses; unions and municipalities. These stakeholders present included those from key mining areas such as Lephalale, Sekhukhune, Musina, Mopani etc, which are include areas that earmarked for different economic development initiatives such as the Special Economic Zones in order to stimulate sustainable economic growth and create jobs.

### **3. PURPOSE OF THE BILL**

The main objective of the bill is "To amend the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended by the Mineral and Petroleum Resources Development Act, 2008 (Act no. 49 of 2008); so as to remove ambiguities that exist within the Act; to provide for, inter alia, strengthening of existing provisions relating to the implementation of Social and Labour Plans (SLPs) to augment and substantially increase the socio-economic development impact of through mining, enhance provisions relating to regulation of mining industry through beneficiation of minerals or mineral products as outlined in the approved beneficiation strategy; to promote national energy security; to streamline and integrating administrative processes relating to the licensing or rights to provide for regulatory certainty as well as providing for the State's active participation in petroleum development.. The bill further seeks to amend the principal act to align the Mineral and Petroleum Resources Development Act with the Geoscience Act, 1993 (Act no 100 of 1993), as amended by the Geoscience Amendment Act , 2010 (Act no. 16 of 2010).

### **4. STRATEGIC OBJECTS OF THE BILL**

The Department of Mineral Resources representatives made a presentation on the Mineral and Petroleum Resources Development Amendment Bill, addressing, amongst others, the strategic objects of the bill which are as follows:

- To Improve the ease of doing business in the mining and petroleum industry , including the streamlining and intergration of mining, environmental and water authorization processes, thus in alignment with National Environmental Management Act and National Water Act
- To strengthen its content in order to further enhance and continue creating a conducive environment for investment, growth and job creation.

- To augment and substantially increase socio-economic development through mining
- To balance the needs with national development imperatives
- To further entrench the principle of security of tenure and protection of the sanctity of investments as an integral part of South Africa's mining regulatory framework
- To provide for radical economic transformation in the mining , minerals and upstream petroleum industry as well as to entrench and embed transformation through the Mining Charter
- To bring the administration of historical stockpiles created prior to the promulgation of the MPRDA in to ambit with the Act.
- To provide for the designation of minerals for national developmental imperatives such as security of energy supply, food security and industrialization
- To enhance provisions relating to regulation and implementation of Social and Labour Plans
- Provide for partitioning of rights and enhanced sanctions
- To provide for the enforcement of Housing and Living Conditions Standards for mineworkers; and
- To address certain shortcomings identified in particular court cases including Macsand, Mawetse and Bengwenyama.

## 5. CONTRIBUTION BY STAKEHOLDERS

Following the presentation by the representatives of the Department of Minerals Resources, the stakeholders, especially those from different mining communities were given opportunity to present their submissions. The stakeholders raised some of the following inputs with regards to the contents of the bill.



### 5.1. Contribution regarding the MPRDA Bill

- In streamlining the administration and licensing processes, the Minister for Department of Rural Development and Land Reform should be include since most minerals are in communal land.
- The DMR, should ensure that the applicant has the relevant village's Traditional Council Resolution and Minister's approval before being given the mining right. In terms of public consultation before awarding the rights the department should also consider the inputs of the relevant community.
- With regard to the process of prospecting rights, it is suggested the number of days be extended from 30 to 90 days for community involvement.
- There is a need for proper consultation before granting mining rights especially where there is intention to mine on land with unresolved land claims issues. The bill has to take into consideration the customary land ownership.
- The administration of funds for community development should not be left to the mining houses as it leads to noncompliance particularly regarding corporate social investment development protests in mining communities.
- The Environmental Management Plans and Social Labour Plans must be developed and be availed to communities so that they understand and monitor the mining house.
- The department should consider the input of the community on the report of the mining house on the implementation of the SLP's and CSI to get the accurate picture.
- There should be a structure which is responsible for engaging the mining house on implementation of development projects and there should be a dedicated institution to address community issues.
- The MPRDA bill should clarify its national target and objectives in terms of community development in mining communities.
- On clause 1, page 23, the definition of the historical disadvantaged person should specifically refer to a black person.

- The government should enforce the implementation of SLP's and provide reports to the communities.
- The bill should enforce the rehabilitation of the mine even after the mine has closed.
- In terms of mining of sand in local villages, the bill should ensure that the moneys collected are utilized for the development of the community.

## **6. CONCLUSIONS**

The public hearings were conducted following appropriate process of the Legislature in two different areas. The bills were also sent to different municipalities so that they can reach the affected communities in those regions. Given the fact that a large number and a variety of community groups were represented at the public hearings, as well as the inputs made, the public consultation process was effective in obtaining public inputs for the Mineral and Petroleum Resources Development Amendment Bill.





HON. FR. DAU

02/05/2017

DATE

CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT,  
ENVIRONMENT AND TOURISM