

**MINING CHARTER 2017: AN INSTRUMENT OF CHANGE: GIVING PRACTICAL EXPRESSION TO  
RADICAL ECONOMIC TRANSFORMATION**



**ADDRESS BY THE MINISTER OF MINERAL RESOURCES, THE  
HONOURABLE MINISTER MOSEBENZI ZWANE, MP  
ON THE OCCASION OF THE RELEASE OF THE MINING CHARTER, 2017**

**15<sup>th</sup> June 2017**

Representatives and Captains of Business

Representatives and Captains of Labour

Senior Government officials

Members of the Media

Fellow South Africans

The mining industry has been the bedrock of the South African economy for over 100 years. The sector has made many positive contributions to the development of our economy, and some of the infrastructure and industries thriving today are as a direct resulting of mining.

We cannot deny, however, that there have been some undesirable effects, brought on by decades of colonialism and apartheid.

Unemployment, inequality and poverty have been growing over the years, creating an untenable situation.

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The birth of South Africa's democracy in 1994 brought about political freedom for all. Vast economic imbalances remain a challenge, particularly when the majority of South Africans have yet to see meaningful economic participation or ownership of these minerals.

The need for more radical measures in order to meet the socio-economic needs of our people has never been greater than it is right now. As a country with a substantial amount of untapped mineral resources, we have a unique opportunity to use these minerals as a catalyst not only to adopt more aggressive economic growth efforts, but to catapult South Africa's economy forward.

We are not blind to the current global economic climate. It requires Government to be more resilient in addressing the ever-growing economic challenges posed by a variety of political and economic factors.

This Mining Charter we present to you today is a key instrument for radical change, designed to address many of the inequalities in the mining and minerals sector prior to 2002. Section 100 of the Mineral and Petroleum Resources Development Act (MPRDA) tasks the Minister to establish, assess and where necessary, revise the framework and targets for the entry and ongoing participation of historically disadvantaged South Africans into the sector. This is a task that cannot be taken lightly.

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Mindful of our imperatives to radically advance the meaningful inclusion and participation of all South Africans in the economy, we are cognisant of the fact that mining cannot exist in a vacuum. In order for the sector to thrive, it requires strong and supportive legislative and fiscal regimes.

In 2016 at my first Mining Indaba as the Minister of Mineral Resources, I promised that as a reasonable and responsible Regulator, we would take some time to engage with South Africans. Over the past year, we embarked on many such engagements, and heard views from a wide range of stakeholders. A major concern raised by the investor community was that of policy certainty, and at a time when policy certainty is most needed, we present the 2017 Mining Charter, An Instrument of Change: Giving Practical Expression to Radical Economic Transformation.

We have listened to the people of South Africa, who have indicated that many of the structures for the inclusion of Black shareholders in the industry have been nothing more than debt-laden arrangements, with no real direct economic participation. We have taken the time to study these structures.

We have listened to workers and communities whose economic interests in the mines have not been recognised. They have not seen real economic benefit from mining activities.

We engaged the financial institutions, who shared their challenges of balancing developmental needs and that of making profit.

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We have listened to the sector who not only asked for policy certainty going forward, but requested certainty and clarity on historic deals.

We have learned from our experience as Government, and we now know that it is not enough to prescribe percentages and targets in a vacuum.

Given these and other considerations, I turn now to deal with some of the key areas of improvement that are informed by what you have said and have resulted in us implementing what you have asked for.

On the element of ownership, not only have we increased the thresholds required for prospecting rights, mining rights and the transfer of rights, we have ensured that workers and communities receives their fair share of the economic development of their country's mineral resources.

The 2017 Charter requires that a new prospecting right must have a minimum of 50% plus 1 Black Person shareholding, which must include voting rights.

A new mining right must have 30% Black Persons' shareholding, with the 30% shareholding to be apportioned between employees, communities and entrepreneurs in a specific manner.

The stability of the mining sector is largely dependent on workers, who play a crucial role in its development. Stability cannot exist whilst the conditions of workers remains inadequate. In demonstrating

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Government's commitment to ensuring that our workers realise decent benefits, we have incorporated measures aimed at addressing their concerns - the most notable being the allocation of 8% shareholding to workers, and the separation of workers' shareholding from that of entrepreneurs. Holders of rights are also required to submit a Housing and Living Condition Plan that caters for human dignity and privacy for workers.

We have taken to heart the plight of our people from host communities and from labour-sending areas. An 8% shareholding is allocated to mine communities, to be held through a trust. We have further introduced the requirement to publish the SLPs. This evidences that the development of our communities is a fundamental aspect of our socio-economic growth objectives. We must ensure that our communities, under the leadership of both Government and traditional leaders, derive meaningful benefit from their mineral wealth.

A 14% shareholding to Black entrepreneurs evidences that this Instrument of Change is serious about new Black entrepreneurs. It is designed to encourage new Black shareholders in mining and mineral ventures, and to ensure that they receive real economic value from their participation, rather than decades of debt repayments.

Holders who have maintained a 30% black shareholding will not be required to restructure their shareholding. In this regard, the Charter seeks to reward those holders of mining rights who have contributed to transformation of the industry.

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Importantly, the 30% ownership requirement also applies to holders who claim historical BEE transactions. A historical BEE transaction is recognised for the reporting period, but such holders are required to top up their shareholding to the minimum requirement of 30% black shareholding within 12 months of the Charter coming into force.

With regards to the transfer of rights, a Holder who sells their mining assets must give black-owned companies a preferential option to purchase.

The 2017 Charter also provides for improvements to Beneficiation. Although the maximum offsetting remains at 11%, the 2017 Charter provides clarity by setting out certain criteria for the qualification of the 11% offsetting.

In order to ensure that the workers, mine communities and Black Entrepreneurs derive real economic benefit from their participation and ownership in the mining industry, the Charter requires the holder of a mining right to pay 1% of its annual turnover to the 30% Black Persons' shareholding prior to, and over and above any distributions made by a Holder to its shareholders. This 1% payment is meant to ensure real economic value in the hands of Black Persons, but is always subject to the solvency and liquidity test as provided for in the Companies Act.

In order to achieve economic transformation, we need to produce a new era of industrialisation, driven by young economic champions.

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Procurement can play a profound role in providing genuine economic opportunities, particularly to new entrants and the youth. It is through procurement opportunities that we can eliminate historic imbalances that continue to plague South Africa's growth. The Charter requires 70% procurement of mining goods and 80% procurement of services from BEE entities. It also requires that analysis of 100% of mineral samples be done by South African based companies.

On Employment Equity, the Charter aims to ensure that black representation at the various levels of employment is representative of the demographics of the country, whilst ensuring harmonisation with other industry Charters. The requirements are:-

- At Board level, a minimum of 50% black representation, 25% of which must be female black representation;
- At Executive/Top Management level, a minimum of 50% black representation, 25% of which must be female black representation;
- At Senior Management level, a minimum of 60% black representation, 30% of which must be female black representation;
- At Middle Management level, a minimum of 75% black representation, 38% of which must be female black representation;  
and
- At Junior Management level, a minimum of 88% black representation, 44% of which must be female black representation.

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On the Human Resource Development element, a Holder must invest 5% of the Leviable amount on essential skills development. The manner in which this is to be determined is set out in the Charter.

The Charter is now applicable to the Diamonds Act and the Precious Metals Act. In determining whether to grant a license in terms of either of these Acts, the provisions of the Charter must be taken into account. The intention is to ensure transformation of the entire industry.

We cannot ignore the fact that effective implementation of this Charter is key if we are to see meaningful change. We have therefore begun to increase capacity within the Department in order to ensure better service delivery.

As the custodian of the nation's minerals, Government, through the Department of Mineral Resources, has a duty to ensure that it stewards the country's minerals in a manner that benefits all South Africans.

Whilst we seek to aggressively drive growth, we must acknowledge that time and market conditions pose a legitimate concern to achieving the Charter's objectives. As a result, transitional arrangements have been incorporated into the Charter so as to ensure the realisation of these stated objectives in a difficult global economic climate.

The MPRDA boldly declares that the mineral wealth beneath the soil belongs to all South Africans. Our role as the custodian of these minerals on behalf of the people, is to see to it that this declaration becomes a reality. Today I implore you to join us we together implement

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this revolutionary tool, aimed at ensuring that we meaningfully transform this key sector of our economy for investment, growth and sustainability.

I thank you.