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Impact of social and labour plans in alleviating poverty in Matjhabeng Municipality

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2011-05-17
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SOCIAL AND LABOUR PLAN GUIDELINES FOR THE MINING AND PRODUCTION INDUSTRIES

[1] http://www.dme.gov.za/pdfs/minerals/SOCIAL%20AND%20LABOUR%20PLAN%20GUIDELINES.doc retrieved 02 July 2009



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Department:
Minerals and Energy
REPUBLIC OF SOUTH AFRICA

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ACRONYMS

ABET	Adult Basic Education and Training
DME	Department of Minerals and Energy
DoL	Department of Labour
HDSA	Historically Disadvantaged South Africans
LED	Local Economic Development
MQA	Mining Qualifications Authority
MPRDA	Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002)
SETA	Sector Education Training Authority

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 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 including Employment Equity Plans, Local Economic Development Programmes 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 or local economies. To this effect the Department deemed it appropriate to provide guidelines for the development of the Social and Labour Plan in tandem with the objectives of the MPRDA and the National Social Plan.

1.1 Purpose of the guidelines

The guidelines are intended to assist applicants i.e. mines or production operations in preparing the prescribed Social and Labour Plans specified in Part II of the Regulations under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

1.2 Objectives of the Social and Labour Plan

The objectives of the Social and Labour Plan are to:

(a) Promote employment and advance the social and economic welfare of all South Africans;
(b) Contribute to the transformation of the mining industry; and
(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.

1.3 Submission of the Social and Labour Plan

An application for a mining or production right or conversion of old order mining or production right in terms of the Act must be accompanied by a Social and Labour Plan contemplated in regulation 46.

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.

1.4 Applicability of the Social and Labour Plan

A Social and Labour Plan lodged with the Regional Manager or Designated Agency is valid until a closure certificate has been issued in terms of section 43 f the Act.

1.5 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.

1.6 Reporting on the Social and Labour Plan

The holder of a mining production right must submit an annual report on the compliance with the Social and Labour Plan to the relevant Regional Manager or Designated Agency.

CONTENTS OF THE SOCIAL AND LABOUR PLAN

The contents of the Social and Labour Plan include the following six components:

SECTION 1: PREAMBLE

b. Provide the background information in terms of the following:

	FIELD	EXPLANATION
1.1	Name of the company/applicant	The organization's registered name
1.2	Name of mine or production operation	Self explanatory
1.3	Physical Address	Self explanatory
1.4	Postal Address	Self explanatory
1.5	Telephone Number	Self explanatory
1.6	Fax Number	Self explanatory
1.7	Location of mine or production operation	The location in terms of Province(s), District Municipality/ies,
1.8	Commodity	The commodity/ies mined
1.9	Life of mine or production operation	The expected life of mine at the rate of current production and reserves.
1.10	Breakdown of employees per sending area	Numbers of employees from each sending area e.g. town, village, etc
1.11	Financial year	Date of financial year for the company

Note: Where the Social and Labour Plan is submitted on behalf of a Mine or Production Operation composing of a number of components (e.g. shafts), individual preambles must be attached for each component.

SECTION 2: HUMAN RESOURCE DEVELOPMENT PROGRAMME

2. The primary objective of human resource development programme is to ensure the availability of mining and production operation specific skills and competencies of the workforce, and skilling of employees for portable skills utilizable by the employees outside the life in the mining or production industries. The following five plans and supporting forms must be submitted:

2.1 Skills development plan

Provide a detailed skills development plan that outlines how the Mine or Production Operation intends to offer employees opportunities to be functionally literate and numerate, learnerships; skills programme; portable skills and any other training.

The skills development plan should also outline how the Mine or Production Operation would participate with processes of skills development legislation including developing and submitting the workplace skills plans and annual training reporting; paying and claiming of levy and grants with the SETA(s) with which the Mine or Production Operation is registered. The following supporting forms must be submitted with the skills development plan:

2.1.1 Education levels of the workforce

Provide the number and education levels of the entire workforce in the format of Form Q, Annexure II.

2.1.2 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, Annexure II.

Note: This information would be submitted to the SETAs for training and development purposes.

2.2 Career progression (path) plan

Provide a detailed career progression (path) plan, which is in line with the skills development plan provided in 2.1 on how the Mine or Production Operation would progress the employees through the employment levels.

2.3 Mentorship plan

Provide a detailed mentorship plan for the employees and empowerment groups, which is in line with the skills development plan provided in 2.1 and how the plan would be implemented.

2.4 Internship and bursary plan

Provide a detailed internship and bursary plan, which is in line with the skills development plan provided in 2.1 and how the plan would be implemented.

2.5 Employment Equity Plan

Provide the employment equity statistics which must be completed in the format of Form S, Annexure II, accompanied by a plan on how the mine would achieve the ten percent (10%) women participation in mining and the forty percent (40%) HDSA participation in management within 5 years from the commencement of the MPRDA. The plan must outline how the talent pool has been identified and how it would be fast tracked.

SECTION 3: LOCAL ECONOMIC DEVELOPMENT PROGRAMME

3. The primary objective of local economic development (LED) programme is to ensure poverty eradication and community upliftment in the area within which mining or production operations take place and in areas from which majority of the workforce is being sourced. The local economic development programme includes sustainable projects which the Mine or Production Operation will initiate, implement and support financially or otherwise.

The Mine or Production Operation in accordance with the local economic development programme must ensure co-operation with the formulation of the integrated development plans of the areas within which they operate; and co-operating with government in the implementation of the integrated development plans for communities where the operation takes place and for major labour sending areas.

To this effect, the Mine or Production Operation must, through consultations with communities and relevant authorities, and participation in existing and emerging development structures/forums, provide the Mine or Production Operation local economic development programmes in line with the integrated development plan of the district municipality within which the operation takes place which must include but is not limited to the following:

3.1 Social and economic background information

Provide the baseline social and economic information of the area in which mining or production operations take place, and the areas from which the majority of the labour has been sourced.

3.2 Key economic activities

Provide the key economic activities and needs of the area in which mining or production operations take place.

3.3 Impact of the mining operation

Provide the impact that the mining or production operation would have on the community and the areas in line with the duration of the mining right. This must include but is not limited to:

- Number of jobs created;
- Small, micro, medium enterprises (SMME) development;
- Infrastructure development;
- Community development; and
- Poverty eradication.

3.4 Measures to address housing and living conditions

Provide a plan to establish the preferred requirements for housing and living conditions of the workforce, following which:

- For new operations, determine the need for establishment of settlements, the type of settlement envisaged, the location of the envisaged settlement, the sustainability of the settlement beyond the life of the mine or production operation, etc;
- For existing operations, indicate the type of housing currently provided, and measures for improving the standard of housing and living conditions.

3.5 Measures to address nutrition

Provide a plan and its implementation to establish measures for improving nutrition of employees, in case where the operation provides nutrition. An implementation plan to improve the nutrition and to progress the issue over time must be provided.

3.6 Procurement progression plan

Provide a plan for the progression of procurement from HDSA companies in terms of capital goods, services and consumables.

The current level of procurement from HDSA companies must be indicated with the breakdown of allocation in percentage of the total procurement for HDSA companies in the format of Form T, Annexure II.

SECTION 4: PROCESSES PERTAINING TO MANAGEMENT OF DOWNSCALING AND RETRENCHMENT

4. Organizations have to retrench workers from time to time for economic reasons and to remain globally competitive. This is one of the worst things that can happen to a worker and affects his or her whole life. 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.

The process must be include but is not limited to the following:

4.1 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;
- Identify production and employment turnaround strategies; and
- Implement strategies agreed upon by both employer and worker parties.

4.2 Mechanisms to save jobs and avoid job losses and a decline in employment

Outline the process to be followed when prevailing economic conditions cause the profit revenue ratio of the relevant operation to be less than six percent on average for a continuous period of 12 months. The process to be followed must include but is not limited to:

a. Consultations

The consultation process in terms of Section 52 (1) of the Act.

b. Implementing section 189 of the Labour Relations Act, 1995

The process to implement section 189 of the Labour Relations Act, 1995.

c. Notification to the Minerals and Mining Development Board (the Board)

The notification process to the Board in terms of Section 52 (1) (a) of the Act.

d. Complying with Ministerial directive

Compliance with the Minister's directive and confirming how corrective measures would have been taken.

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

Outline the process to be followed when the operation is to be scaled down or is to cease with the possible effect of job losses. The process to be followed must include but is not limited to:

a. Consultations

b. The consultation process in terms of Section 52 (1) of the Act.

b. Implementing section 189 of the Labour Relations Act, 1995

The process to implement section 189 of the Labour Relations Act, 1995. (To deal with possible retrenchment details).

c. Notification to the Board

The notification process to the Board in terms of Section 52 (1) (b) of the Act.

d. Communicating possible retrenchments

An effective communication strategy that will be followed in:

- Informing employees of possible retrenchments;
- Informing other affected parties (sending areas, municipalities, etc.) of the possible retrenchments at the operation;
- Informing outside parties (media, etc.) of the possible retrenchments at the operation.

4.4 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:

a. Assessment and counseling services;
b. Comprehensive self-employment training programmes;
c. Comprehensive training and re-employment programmes.

SECTION 5: FINANCIAL PROVISION

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. To this effect, the Mine or Production Operation must outline how it would financially provide for the implementation of:

a. The human resource development programme;
b. The local economic development programme; and
c. Processes pertaining to management of downscaling and retrenchments.

SECTION 6: 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 of _____20____

Signature of responsible person _____

Designation_____

Approved

Signed at _____on this_____day of_____20____

Signature: _____

Designation: _____