

# Sunday Times Business Times

## ■ BUSINESS

### Miners unite against draft bill

'It amounts to expropriation,' says Pan African Resources as industry gears up to challenge proposed legislation

📌 BL PREMIUM

01 JUNE 2025 - 10:04



Harmony Gold, South Africa's biggest gold producer, says it is studying the bill and will respond through industry structures. Picture: 123RF/MARTIN BERGSMA

Mid-tier gold producer Pan African Resources has described the draft Mineral Resources Development Bill as amounting to “expropriation” and has vowed to fight a provision that will force tailings storage operators to either include these under existing mineral rights or risk losing ownership of the assets to the state.

The company's head of investor relations, Hethen Hira, told Business Times that Pan African Resources, which operates the Evander tailings facility in Mpumalanga, was consulting its lawyers on a possible challenge.

"We will be challenging the bill as it amounts to expropriation, and we understand our industry peers will be doing the same, along with the Minerals Council. We do have a mining right for our Mogale tailings assets, but we will have to apply for a section 102 for our Evander tailings at Elikhulu, as it stands," Hira said.

The proposed revision of section 102 of the Mineral and Petroleum Resources Development Act (MPRDA) will allow companies to mine associated minerals, as long as they declare this activity to the department of mineral & petroleum resources, and apply to include these in existing mineral rights.

DRDGold, another tailings dam specialist, described the bill as "a complex and evolving matter with potential implications across the mining industry".

Harmony Gold, South Africa's biggest gold producer, said it was studying the bill and would respond through industry structures.

The draft bill proposes to fundamentally overhaul the regulation of the mining industry. If enacted into law, tailings dam operators will have to apply for mineral rights within two years of its passing, failing which the ownership of the tailings reverts to the state.

The bill, out for public comment until August 13, proposes, among others:

- A requirement for listed and unlisted mining companies to obtain ministerial consent for change of control, a move that could clash with stock exchange regulations here and abroad;
- Including exploration in broad-based BEE ownership rules;
- Amending provisions relating to mining permits to regulate small mining operations and officially recognise artisanal mining; and
- Empowering the minister to invite black people to apply for artisanal mining permits in certain designated areas.

The Minerals Council South Africa, which represents 90% of the country's mining industry, was in combative mode at its AGM on

Wednesday, telling minister of mineral & petroleum resources Gwede Mantashe, who addressed the meeting, that it disagreed with many provisions of the bill and would fight it all the way.

The council's newly elected president, Paul Dunne, said that while the industry could not control global commodity prices, it would invest only if the right policies and investment climate were in place.

“These policy levers, broadly speaking, lie with the government. When we examine the bill, we ask ourselves two questions: does it contribute to an improved investment climate, and is it employment positive? Our considered answer is no, it does not, and shall not go unchallenged,” he warned.

---

**“ Don't make subtle threats. We have experience in the mining industry; start briefing your lawyers. ”**

*- Gwede Mantashe, minister of mineral & petroleum resources*

---

Dunne said the Minerals Council was a strong and professional advocacy group representing virtually the entire mining industry, and would respond formally through the public consultative process.

Mantashe responded by telling council members that he was “equally tough”.

“Don't make subtle threats. We have experience in the mining industry; start briefing your lawyers,” he said.

Mantashe said the BEE requirements in the bill were non-negotiable. “Talk to us, we will revise that, but we are not going to remove provisions for BEE in the act,” he said.

The minister said the mining industry had a responsibility to create more successful black miners. “If you are a leader of the sector and don't produce multipliers, you are not a good leader; a leader worth their salt must produce other leaders and other multipliers.”

However, while the draft bill proposes introducing empowerment rules for exploration, Mantashe said there would be no BEE provisions on exploration.

During exploration you are looking for quality and quantity of deposits, you are not creating value. We are not expecting you to look for an equity partner for exploration. Once you discover the quantity and get into production we want you to have a BEE partner.

Minerals Council CEO Mzila Mthenjane said they had made several suggestions, which were not reflected in the final amendment bill published for comment.

“One of those was on the back of statements that the minister often makes, that there are no requirements for empowerment for prospecting rights,” Mthenjane said. “When you read the bill, none of that was included; there is a huge burden on prospectors to pretty much abide by the rules as would someone who is applying for a mining right.”

Sibanye-Stillwater spokesperson James Wellsted said they were in full agreement with the Minerals Council on the bill. “We again don't believe this new bill has been appropriately considered or reflects our inputs. As an industry, we will defend against it vigorously,” he said.

Mantashe told the AGM that BEE was important because under apartheid black South Africans were often barred from obtaining blasting certificates, which were reserved for white males with fewer qualifications. He denied BEE was chasing away investment, blaming this on the concentration of ownership.

“This industry must appreciate the responsibility to correct that history. In the [mining] industry, there is a temptation to associate affirming people with cadre deployment. I worked with a director-general who had matric; he was a white male, yet he qualified and there was no discussion about that. I am sitting with a black D-G who has an engineering degree and an MBA and it's [called] cadre deployment. Is it BEE that is chasing away investment, or is it over-concentration of the ownership of the means of production?”

Speaking at mining's Junior Indaba 2025, Hulme Scholes, director at mining law firm Malan Scholes, said the bill would add more compliance regulations for empowerment.

“It just creates massive confusion with respect to compliance,” he said. “That bill, if it comes into effect, makes the codes of good practice part of the act from a BEE and transformation perspective.



You now have to comply with the codes of good practice, there is no mention of what happens to the Mining Charter. The codes of good practice gazetted in April 2009 are a complete clusterf\*\*k.”

Scholes said the bill refers to BBBEE as the yardstick under the Broad-Based Economic Empowerment Act, but there was no detail except in section 103 where it says the minister can impose conditions on miners with respect to transformation requirements.

“If it comes into effect, it will do away with your ability to comply with transformation imperatives as you want to, as you commercially want to,” he said.

Peter Major, a veteran mining analyst and director of mining at Modern Corporate Solutions, said the bill was bad for mining. “These are cut-and-paste words they've been using for two decades now,” he said. “They've written a piece of legislation without thinking about the implications or working through the consequences.”

Major said he was struggling to get his head around the cabinet having given the bill, which he says makes mining in South Africa even more convoluted and complicated, their stamp of approval.

“Has the cabinet even read it? Do they understand the consequences for investment? Do they actually care about investment? The answer appears to be no, no and no. This bill is a perfect example that they couldn't care less about the average unemployed miner and getting him back to work.

“The cabinet has the ability to kill it and send it back because it looks more draconian than anything yet. It doesn't have one redeeming feature to attract any investment, local or foreign.”