

MEDIA STATEMENT

CHAMBER OF MINES APPLIES TO HIGH COURT FOR URGENT INTERDICT TO PREVENT IMPLEMENTATION OF DMR'S CHARTER

Johannesburg, 26 June 2017: The Chamber of Mines today applied to the High Court of South Africa, Gauteng Division, for an urgent interdict to prevent the implementation of the Reviewed Mining Charter, as published by the Department of Mineral Resources (DMR) on Thursday, 15 June. An application to have the Reviewed Mining Charter reviewed in terms of the Promotion of Administrative Justice Act (PAJA) will follow in due course.

The application notes that the Chamber and its members are fully committed to the transformational objectives of the MPRDA. However, they are opposed to the DMR's Mining Charter as it "attempts to subvert those objectives by the unlawful publication of instruments which purport to give effect to such objectives but in fact undermine them." It further notes that should the DMR's charter be implemented in its current form, it will "destroy the very industry whose survival is necessary to give effect to the objects of the MPRDA."

The application further argues that the publication of the 2017 Charter was so obviously beyond the powers of the Minister and that, in publishing the 2017 Charter, the Minister has purported to exercise powers which reside exclusively with Parliament, which he has sought to usurp.

The Chamber's application further notes that the DMR's 2017 Charter is "so confusing and confused, and so contradictory in its core provisions, that not only are the mining companies who are supposedly obliged to comply with the 2017 Charter perplexed as to what they are required to do, but legal experts themselves are confused and find themselves unable to provide clear advice to their mining and investment clients as to the meaning and effect of the 2017 Charter."

The application concludes that, "In summary, the 2017 Charter represents a most egregious case of regulatory overreach. The act of publication was and is harmful



not only because of the content of the 2017 Charter, and the vague and contradictory language employed to convey that content, but also because of the clear threat to the separation of powers which that act presents.

“The vast and systemic damage which the publication and threatened enforcement of the 2017 Charter has and continues to inflict upon the financial and reputational interests of not only the Chamber’s members, their employees and investors but also the country as a whole, requires, it is submitted, urgent redress. Such redress, in the short term, can only be had by way of an urgent interdict. In due course, this court will be asked to set aside the 2017 Charter as an unlawful exercise of power. But in the interim, and in order to avoid further harm and hopefully restore a degree of confidence not only in the mining industry as an investment opportunity but also in this country’s institutions, urgent relief is necessary.”

The Notice of Motion may be found [here](#).

Update on declaratory order

On 19 June 2017, the Chamber’s lawyers asked the Deputy Judge President of the High Court, Gauteng, to re-enroll the Chamber’s Application for a Declaratory Order in respect of the continuing consequences of black empowerment, which action was paused last year by agreement between the Chamber and the DMR. An update on this action will be provided in due course.

For further information on why the ***DMR’s Charter is bad for mining, bad for South Africa***, go to <http://miningcharter.chamberofmines.org.za/>.

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CHAMBER OF MINES
of South Africa