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Sometime before the sun goes down; Targeted reforms to the MPRDA

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Our joint research ERSA-BER paper, "Understanding South Africa's mining slowdown," argued that South Africa's mining industry suffers primarily from self-imposed regulatory and bureaucratic bottlenecks rather than depleted reserves. This follow-up note outlines the tangible legislative reforms required to unlock dormant capital.

By evaluating the current legislative framework, particularly the Mineral and Petroleum Resources Development Act (MPRDA), this note addresses three urgent areas of reform: escalating policy uncertainty, severe administrative gridlock caused by a lack of timelines, and broad ministerial discretion. Ahead of the highly anticipated revised Mineral Resources Development Bill, this analysis argues that fixing these binding constraints is the key to leveraging SA's mineral endowment for faster economic growth.

South Africa's mining sector sits on a globally significant mineral endowment theoretically valued between $2.5 trillion and $4.7 trillion, but continues to operate far below its structural potential. The joint research report "Understanding South Africa's mining slowdown," published on 9 February 2026, demonstrated that the long-term stagnation of the industry is a function of regulatory friction, policy uncertainty, and administrative backlogs rather than geological exhaustion.[2]

This research note translates some of those high-level diagnostic findings into more tangible and legislative recommendations. By evaluating the operational mechanisms of the Mineral and Petroleum Resources Development Act (MPRDA) 28 of 2002 (as amended) alongside direct intelligence from industry stakeholders, this note outlines potential statutory amendments required to unlock dormant capital, catalyse early-stage

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[2] Research report is available at: Botha, R. (2026). Understanding South Africa's mining slowdown (ERSA Policy Paper No. 43). Economic Research Southern Africa. https://doi.org/10.71587/0jznvd71

greenfield exploration, reduce administrative bottlenecks, and improve investor confidence.

LEGISLATIVE AND POLICY UNCERTAINTY

The legislative architecture governing South Africa's mineral complex is at a critical juncture, and policy uncertainty has increased. The initial draft Mineral Resources Development Bill 2025, published on 13 August 2025, was officially withdrawn by state authorities following intense and widespread objections from industry stakeholders. While the withdrawal was a necessary step aligned with prior research recommendations, it has left a policy vacuum characterised by intense speculation and conflicting communications regarding the contents of the forthcoming revised draft.

This uncertainty has been compounded by overlapping institutional frameworks. On 8 June 2026, the Department of Trade, Industry and Competition (dtic) published the Industrial Development Strategy 2026, which seeks to alter the mining incentive structure around exploration, extraction, processing, and investment. The strategy explicitly advocates for a review of mining legislation to enable the government to attach strict conditions to the allocation of mineral rights to force the beneficiation of minerals at source. This intention (to embed beneficiation directly into operational licensing decisions) introduces a new layer of regulatory friction and significantly increases policy uncertainty.

Concurrently, the regulatory landscape faces persistent structural delays. At the Junior Mining Indaba in Johannesburg on 9 June 2026, the Department of Mineral and Petroleum Resources (DMPR) announced that the full rollout of the national online cadastral system has been postponed for a fifth time, pushing the target date out to 31 March 2027. Although a localised version of the cadastre has been successfully executed in the Western Cape, the broader delay deprives the industry of the baseline transparency required to attract international venture capital and enforce property rights effectively.

DECONSTRUCTING SECTION 11: CAPITAL MOBILITY AND TRANSACTION RISK

Section 11, which regulates the transferability and encumbrance of prospecting and mining rights, represents one of the most heavily litigated and commercially sensitive provisions in the MPRDA. Legal and industry experts identify it as a primary source of transaction delays which frequently impede mergers, acquisitions, and asset recapitalisation.

The core vulnerability of Section 11 stems from acute legal ambiguity regarding the scope of what constitutes an indirect change in control. The statute fails to define explicitly a "controlling interest" or clarify how far up a multi-tiered corporate structure the requirement for prior written ministerial consent applies.

This legislative gap has necessitated extensive judicial intervention, creating a framework governed by case law rather than clear legislation. Judicial precedent has established a broad interpretation of Section 11, necessitating ministerial approval for both direct and indirect changes in corporate control. Specifically, the Mogale Alloys ruling[3] dictates that actions causing a structural loss of control, such as an equity dilution, trigger Section 11, which introduces complex regulatory requirements for junior miners attempting to raise working capital. Concurrently, the Vantage Goldfields v Arqomanzi (2023) Supreme Court of Appeal judgment[4] confirmed that this requirement extends uniformly to indirect share transfers involving offshore parent companies.

Furthermore, the 2026 Afrimat Iron Ore High Court ruling[5] addressed the administrative delays associated with these approvals, establishing that the DMPR's failure to issue a Section 11 decision within a reasonable timeframe constitutes a reviewable administrative failure under the Promotion of Administrative Justice Act (PAJA), thereby allowing industry participants to legally compel state decision-making.

The legal consequences of getting a Section 11 interpretation wrong are severe: any transaction executed in contravention of Section 11(1) is legally void from the beginning (*ab initio)* and cannot be retrospectively cured or remedied. This creates immense commercial deal risk. Capital remains trapped in marginal or distressed assets because junior miners and turnaround investors cannot swiftly acquire, restructure, and recapitalise operations while waiting months or years for ministerial consent.

Furthermore, while the MPRDA explicitly provides an exemption for listed companies, whose controlling interest changes via open-market trading, the practical application of this exemption remains legally ambiguous when a listed parent company is acquired but the underlying right is held by an unlisted operating subsidiary. The statute must be amended to formally codify these judicial precedents, resolve the listed-flow-down ambiguity, and insert strict statutory timeframes for ministerial approval.

GRIDLOCKS, BACKLOG AND THE LACK OF TIMELINES

The administrative friction within the DMPR operates as an indirect cost on mining investment. Following the structural transition to state custodianship under the MPRDA and the failure of successive internal administrative systems like SAMRAD, which were plagued by information externalities, a lack of transparency, and overlapping application errors, the state accumulated a substantial administrative backlog. By 2021, the outstanding application queue exceeded 4 400 mining rights and more than 36 000 prospecting applications.

The financial toll of this administrative paralysis is vast. A targeted industry survey conducted by the Minerals Council South Africa in 2021 covering just 21 operating companies revealed that 178 outstanding license applications had stalled over R30 billion in active, planned capital expenditure. Nationally, the aggregate opportunity cost

[3] Mogale Alloys (Pty) Ltd v Nuco Chrome Bophuthatswana (Pty) Ltd and Others (2011) (6) SA 96 (GSJ); [2011] JOL 26907 (GSJ)

[4] Vantage Goldfields SA (Pty) Ltd & Another v Arqomanzi (Pty) Ltd & Others (733/2022) [2023] ZASCA 106 (27 June 2023)

[5] Afrimat Iron Ore (Pty) Ltd v Minister of Mineral and Petroleum Resources and Others (2026/089786) [2026] ZAGPPHC 403 (18 May 2026)

generated by this bureaucratic gridlock and uncompetitive licensing timelines is estimated to drain between R30 billion and R50 billion from the sector annually.[6]

The primary driver of this systemic delay is the absence of mandatory performance standards governing the state apparatus within the text of the MPRDA. While the Act routinely imposes strict, non-negotiable compliance windows on private sector applicants, it systematically omits binding timeframes for the state's internal evaluation and approval mechanisms. Specifically, from Sections 10 through 34—covering the consultation, processing, and granting of reconnaissance permissions, prospecting rights, mining rights, and retention permits—the Act fails to stipulate enforceable deadlines for regional managers to forward files to the relevant authorities or for the Minister to execute final decisions. Similarly, Section 93 lacks a timeframe for the Director-General to finalise mine suspension reviews. *(A detailed, section-by-section breakdown of these omissions and proposed statutory amendments is provided in Table 1)*.

To resolve backlogs and delays, a rapid, backlog-eradication program should be institutionalised, augmented by the secondment of private-sector technical expertise to unblock the choked pipeline. This administrative resolution must be legally paired with the introduction of clear, strict statutory processing timelines across all rights, renewals, and permits, which should improve predictability and turnaround times in the industry.

To ensure these statutory timelines are strictly enforceable rather than merely aspirational, policymakers should embed the principle of tacit approval or introduce a silence-is-consent rule, an administrative simplification mechanism widely advocated by the Organisation for Economic Co-operation and Development (OECD).

Under this regulatory approach, if the state authority fails to issue a formal decision or communicate specific objections within the prescribed legal timeframe, the application, renewal, or transfer is automatically deemed approved. Introducing tacit approval into the MPRDA would fundamentally shift the cost of administrative delay and compliance away from the private sector and onto the state. This would drastically reduce transaction friction and provide the definitive certainty required by capital markets.

UNLOCKING EXPLORATION VIA FISCAL OFFSETS AND GEOLOGICAL DATA

South Africa's junior mining sector is currently experiencing a critical project-pipeline deficit. While global minerals exploration is increasingly driven by agile, venture-backed junior entities responsible for over 70% of new greenfield discoveries, South Africa’s regulatory environment has forced the domestic industry into a hyper-concentration on brownfield exploration around existing assets.

This systemic decline is starkly illuminated by public market listings and international capital allocation:

[6] Estimations from the Minerals Council South Africa and the Junior Mining Council, as referenced in Botha, R. (2026). Understanding South Africa’s mining slowdown (ERSA Policy Paper No. 43). Economic Research Southern Africa. https://doi.org/10.71587/0jznvd71

- There are currently only about 12 junior resource companies listed on the Johannesburg Stock Exchange (JSE).

- In stark contrast, Australia's ASX hosts over 600 junior resource listings, and Canada's TSX features more than 1 600.

- South Africa's share of global exploration expenditure declined from 5% in 2004 to less than 1% by 2024, translating into a negligible national exploration spend of $43 million, compared to Canada's $3 billion.

To reverse this structural contraction, the state has deployed the Junior Mining Exploration Fund (JMEF). The fund is a targeted financing vehicle co-managed by the DMPR and the Industrial Development Corporation (IDC), with technical backing from the Council for Geoscience. Designed as a non-repayable grant mechanism to finance mapping, geophysical surveys, and initial drilling for 51% black-owned junior entities, the fund has expanded its initial R400 million seed capital to pool roughly R2 billion in total pledges through institutional capital injections—including R600 million from Anglo American and R1.35 billion from the Public Investment Corporation (PIC). By June 2026, the DMPR reported to Parliament that 13 critical greenfield and brownfield exploration initiatives had successfully been funded, with active rare earth elements and copper-nickel-gold projects underway in Bothaville and Giyani.

Despite this effort, the scale of the fund remains insufficient to revive the broader national exploration pipeline. Industry bodies strongly advocate for the introduction of systematic market-wide incentives, specifically a "flow-through share" model mimicking Canadian and Australian tax frameworks. This mechanism allows investors to claim back between 70% and 100% of their investment in high-risk mining exploration as a direct tax credit, dramatically lowering the cost of finance. Various industry stakeholders have proposed introducing an incentive framework by reviving and ring-fencing a version of Section 12J of the South African Income Tax Act exclusively for mineral exploration.

To counter National Treasury's standard structural objection that any new tax incentive must identify a corresponding revenue offset, some experts have proposed a clear fiscal trade-off. The incentive can be directly funded by reducing or placing an explicit cap on the state's existing accelerated capital depreciation allowances for transport equipment within the mining sector, an expenditure that currently costs the national fiscus between R5 billion and R7 billion annually. Moreover, capital productivity within South African mining is low, driven in part by the reality that unrestricted accelerated capital depreciation has generated a distorted incentive structure.

Industry firms allegedly engage in continuous over-investment in heavy transport capital purely to lower accounting profits and defer tax liabilities rather than to drive real productivity. Reallocating a part of this R5 billion to R7 billion tax spend away from low-productivity transport capital toward high-multiplier greenfield exploration could present a highly efficient, fiscally neutral structural adjustment.

Note: A technical proposal on how to introduce flow-through shares is beyond the scope of this note. However, it is an issue that requires further research and design should South Africa decide to go this route.

RESTRAINING EXECUTIVE DISCRETION

A primary driver of risk and regulatory unpredictability within the South African mineral complex is the excessive scope of unilateral executive discretion embedded across multiple sections of the MPRDA. Unrestricted ministerial discretion creates acute investment uncertainty, as global capital markets cannot accurately calculate risk-adjusted returns when core operational rights can be frozen or altered via executive decree.

This structural vulnerability is most visible in Section 49 (the minister's power to prohibit or restrict prospecting or mining). The clause grants the executive broad authority to impose a moratorium on the granting of any reconnaissance permission, prospecting right, mining right, or mining permit across designated land blocks, citing the ambiguous parameters of "national interest" or "sustainable development".

The systemic danger of this unchecked power was demonstrated in 2017 when former Mineral Resources Minister Mosebenzi Zwane attempted to utilise Section 49 to enforce a sweeping nationwide moratorium on all new mining and prospecting applications, while simultaneously attempting to suspend the operation of Section 11 corporate transfers. This action paralysed corporate restructuring and blocked junior miners from acquiring and recapitalising distressed operations.

To prevent future executive overreach, Section 49 must be amended to codify an exhaustive, unambiguous definition of "national interest" (restricted to immediate national security emergencies or severe ecological crises), explicitly outlaw nationwide blanket bans on the cadastral system, impose a hard statutory cap in terms of the period of any moratorium, and legally require the formal concurrence of at least the Minister of Finance to ensure the fiscal and macroeconomic fallout is quantified.

Similarly, Section 26 (mineral beneficiation) grants the minister the power to regulate, restrict, or prescribe levels required for the domestic processing of minerals, including requiring written notice and consultation before a producer can legally beneficiate South African minerals outside the Republic.

Section 26 creates immense operational friction and should be entirely scrapped. The push for forced local beneficiation, while industrially well-intentioned, ignores the uncompetitive domestic smelting environment which is characterised by high electricity tariffs. Attempting to enforce beneficiation at source through licensing conditions, as reiterated in the dtic's Industrial Development Strategy 2026, simply penalises extraction and sterilises core investments.

Finally, Section 93 (orders, suspensions and instructions) creates an administrative loophole. While it empowers field inspectors to suspend large-scale mining operations immediately based on suspected regulatory non-compliance, and notes under Section 93(3) that the DG has 60 days to notify the holder after confirming or setting aside the order, Section 93(2) fails to place any timeframe on the DG to actually arrive at that decision. Consequently, an entire mine can be legally held in suspension indefinitely while waiting for an executive review, placing financial strain on the operation and endangering employment. A strict statutory cap must be imposed on the DG to finalise all Section 93 reviews.

GOVERNANCE, INTEGRITY, AND ENFORCING THE RULE OF LAW

The operational and financial stability of the South African mining sector is heavily compromised by an escalating security crisis and entrenched administrative corruption. Illicit mining activities have undergone a severe evolution, transforming from localised, opportunistic theft into a highly organised, heavily armed parallel industry allegedly controlled by globally connected syndicates.

The scale of this criminal erosion is immense.

- The total financial loss attributed to illicit mining surged by 757% over an eight-year window, from R7 billion in 2017 to a staggering R60 billion by 2025.[7]
- It is estimated that more than 10% of South Africa's total annual chrome output—equivalent to roughly 2.7 million tonnes of ore—is illegally extracted and smuggled out of the country.[8]
- Violent procurement mafias routinely infiltrate legitimate operations, utilising extortion and armed intimidation to force operators to award local procurement contracts to criminal syndicates, directly threatening personnel security and driving project returns below global hurdle rates.

In response to this crisis, the state authorised a coordinated Justice, Crime Prevention, and Security (JCPS) Cluster deployment in March 2026, combining the tactical enforcement capabilities of the South African National Defence Force (SANDF) and the South African Police Service (SAPS) to launch targeted, intelligence-driven operations under the banner of Operation Vala Umgodi. These operations achieved notable tactical disruptions earlier this year—including a prolonged armed engagement with syndicates in Carletonville and the dismantling, under the SANDF-led Operation Prosper, of extensive illegal mining infrastructure and processing networks in Ekurhuleni. Operation Prosper reportedly led to 1 287 arrests in May 2026.[9]

To sustain these gains, the temporary structures of Operation Vala Umgodi must be codified into a permanent, heavily resourced Mining Police Task Force within the SAPS, backed by active public-private partnerships that integrate data from private operators, the National Prosecuting Authority (NPA), and the Financial Intelligence Centre (FIC) to secure court-ready financial evidence.

Crucially, addressing external criminality requires aggressively resolving internal corruption within the state's own regulatory apparatus. Feedback from some

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[7] Based on estimations from PwC. (2025). SA Mine 2025: Resilience, reset and the race for green metals; Manduna, K. (2025). Governance at the margins of the state: Contextualising the spatial and temporal realities of illegal mining in contemporary South Africa. The Extractive Industries and Society, 23, 101694. https://doi.org/10.1016/j.exis.2025.101694; and Jacobs, S. (2025, October 9). The R60 billion industry bleeding South Africa dry. Daily Investor. https://dailyinvestor.com/mining/104862/the-r60-billion-industry-bleeding-south-africa-dry/

[8] Lucas, S. (2025, September 23). SA chrome black market thrives amid export control delays. Business Day. https://www.businessday.co.za/bd/companies/mining/2025-09-23-sa-chrome-black-market-thrives-amid-export-control-delays/

[9] https://www.enca.com/news-top-stories/1287-suspects-arrested-through-operation-prosper-may

stakeholders emphasises that systemic corruption is deeply entrenched, with significant vulnerabilities concentrated around the regional allocation of rights and the arbitrary deployment of regulatory notices by field mining inspectors.

The lack of a transparent, live cadastral system has historically enabled corrupt actors to exploit the failed SAMRAD database to engineer information externalities, including the deliberate granting of overlapping prospecting rights onto existing bankable claims.

To build an institutional safeguard against administrative extortion, Section 8 of the MPRDA should be amended to legally mandate the institutionalisation of routine, frequent, and compulsory lifestyle audits. These audits should be applied strictly to the DG and all regional managers and field mining inspectors. This would convert anti-corruption rhetoric into an enforceable, statutory compliance mechanism.

LEGISLATIVE AMENDMENTS

The following table maps proposed amendments to the current legislative framework (MPDRA).

Table 1: Proposed Legislative Amendments

Current Statutory Clause (MPRDA)	Identified Bottleneck / Investment Risk	Proposed Amendment
Section 8: Designation and functions of officer The Director-General must designate an officer in the service of the Department as regional manager for each region... who must perform the functions delegated or assigned...	High susceptibility of regional departmental structures and field inspectorates to administrative corruption. Conflicting allocation of rights due to the lack of live cadastral oversight.	**Insert New Sub-clause 8(2)** The Department should introduce mandatory, biennial lifestyle audits for the Director-General, all designated Regional Managers, and all active mining inspectors. Failure to pass or submit to an audit should trigger immediate suspension pending a formal judicial review.
Section 9: Order of processing of applications (1) Regional Manager must deal with applications received on (a) the same day simultaneously... (b) different days in order of receipt. (2) Minister must give preference to applications	Promotes administrative gridlock, subjectivity, and manipulation when processing simultaneous same-day claims. Complicates the tracking of priority queues.	**Amend Section 9(1) to read:** The Regional Manager must process all applications strictly in the exact chronological order of receipt, recorded via the automated online cadastral system.

Current Statutory Clause (MPRDA)	Identified Bottleneck / Investment Risk	Proposed Amendment
from historically disadvantaged persons.		
Section 10: Consultation with interested and affected parties (2) If a person object... the Regional Manager must refer the objection to the Regional Mining Development and Environmental Committee to consider...	Complete absence of a binding timeline for the referral enables regional offices to stall applications indefinitely at the objection stage.	**Amend Section 10(2)** If a formal objection is lodged, the Regional Manager must, within [specified period] business days from the closing date of the comment period, refer the complete objection file to the Regional Mining Development and Environmental Committee..."
Section 11: Transferability and encumbrance of rights (1) A prospecting or mining right... may not be ceded, transferred, let, sublet, assigned, alienated or otherwise disposed of without prior written consent of the Minister.	Transaction paralysis for mergers, acquisitions, and asset recapitalisation. Opaque definitions of "controlling interest" fail to account for equity dilution or flow-down listed exemptions.	**Amend Section 11 to formally codify case law:** 1. Define "controlling interest" in line with *Vantage Goldfields* (direct and indirect) and *Mogale Alloys* (dilution thresholds). 2. Insert Clause: The Minister must issue a final decision within [specified period] business days. Failure to do so renders the application deemed approved under the principle of tacit approval.
Section 13: Application for reconnaissance permission (3) If the application does not comply... the Regional Manager must reject the application and notify the applicant in writing within [specified period] days...	Outlines a strict timeline for rejection but provides zero binding timeframes for processing and forwarding a compliant application.	**Amend Section 13(3)** For all compliant applications, the Regional Manager shall, within [specified period] business days of technical acceptance, forward the full file to the Minister for final approval.
Section 14: Issuing and duration of	Legally ambiguous. Only mandates a timeline for	**Amend Section 14(3)**

Current Statutory Clause (MPRDA)	Identified Bottleneck / Investment Risk	Proposed Amendment
reconnaissance permission (3) If the Minister refuses... the Minister must, within 30 days of the decision, notify the applicant in writing with reasons...	communicating a refusal after it occurs; places no statutory timeframe within which the actual decision must be reached.	The Minister must issue a final approval or formal refusal within [specified period] business days from the date of receipt from the Regional Manager. Failure to decide within this window triggers automatic statutory approval."
Section 16: Application for prospecting right (5) Upon receipt of the information... the Regional Manager must forward the application to the Minister for consideration.	Lack of an enforceable timeline for the regional manager to submit the finalised file to the executive branch, enables stalling greenfield project pipelines.	**Amend Section 16(5) to read:** Upon receipt of the environmental and consultation documentation, the Regional Manager must, within [specified period] business days, forward the complete application package to the Minister.
Section 18: Application for renewal of prospecting right (3) The Minister must grant the renewal of a prospecting right if the application complies with subsections (1) and (2)...	No statutory processing time limit exists for executing renewals, allowing existing exploration projects to languish in a state of extended legal limbo.	**Amend Section 18(3) to include:** The Minister must grant or refuse the renewal within [specified period] business days of receipt of a compliant application. Prospecting operations shall continue unimpeded during this evaluation window.
Section 20: Permission to remove and dispose of minerals (2) The holder... must obtain the Minister's written permission to remove and dispose... of diamonds and bulk samples...	Essential bulk sampling to prove commercial feasibility is routinely frozen for months due to an open-ended ministerial evaluation window, burning investor capital.	**Amend the section to include:** The Minister shall evaluate and finalise the written permission within [specified period] business days of the submission of a bulk sample request. Absence of a formal response denotes statutory approval.
Section 23: Granting and duration of mining right	Imposes a clear 60-day deadline to execute a refusal but	**Amend Section 23 to include:**

Current Statutory Clause (MPRDA)	**Identified Bottleneck / Investment Risk**	**Proposed Amendment**
(3) The Minister must, within 60 days of receipt... refuse to grant a mining right if the application does not meet the requirements...	provides no corresponding time boundary within which a positive mining right must be granted.	The Minister must officially grant or formally refuse a mining right within [specified period] calendar days of receiving a technically complete submission from the Regional Manager.
Section 24: Application for renewal of mining right (3) The Minister must grant the renewal of a mining right if the application complies with subsections (1) and (2)...	Open-ended renewal windows introduce severe multi-year planning risks for large-scale operations and deter long-term asset reinvestment.	**Amend Section 24 to include:** The Minister shall finalise all mining right renewal decisions within [specified period] calendar days of lodging. Operations are structurally protected and remain in force during the review.
Section 26: Mineral beneficiation (1) The Minister may initiate or promote...(2A)) In promoting beneficiation, the Minister may prescribe the levels required for beneficiation ……(3) Any person who intends to beneficiate outside the Republic may only do so after written notice and in consultation...	Operates as a severe penalty on mineral extraction. Prescribing unviable domestic processing targets amidst high electricity tariffs sterilises mining capital.	**Delete Section 26 in its entirety.** The regulatory framework must shift away from forced beneficiation via licensing conditions and focus on improving extraction, exploration scale and the operating environment.
Section 27: Application for issuing and duration of mining permit (6) If the Regional Manager accepts... the Regional Manager must notify the applicant to consult... and submit environmental reports...	The timeline for regional managers to process and forward a permit application after the applicant submits environmental reports is omitted, stalling small-scale junior mines.	**Amend Section 27 to include a binding sub-clause:** The Regional Manager must, within [specified period] business days of receiving all completed environmental and consultation reports under subsection (5), forward the final

Current Statutory Clause (MPRDA)	Identified Bottleneck / Investment Risk	Proposed Amendment
		permit recommendation to the Minister.
Sections 32, 33 & 34: Retention Permits The Minister may issue / refuse / renew a retention permit if the holder has studied the market and found mining uneconomical...	Complete absence of timelines across the entire issuance, refusal, and renewal cycle of retention permits, directly undermining the "use-it-or-lose-it" principle.	**Amend Sections 32, 33, and 34 to embed uniform timelines:** The Minister must execute a final decision on all retention permit applications within [specified period] business days of lodgement, enforcing strict milestone audits to prevent asset sterilisation.
Section 49: Minister's power to prohibit or restrict prospecting or mining (1) The Minister may... from time to time by notice in the Gazette, having regard to the national interest... prohibit or restrict the granting of any right...	Unchecked executive discretion allows ministers to declare blanket moratoriums or unilaterally freeze corporate transactions with potentially severe economic impacts	**Overhaul Section 49 to restrict power:** 1. Exhaustively define "national interest" (e.g., direct war, security crises). 2. Ban nationwide cadastral freezes. 3. Impose a hard, maximum statutory cap of [specified period] months on any restriction. 4. Mandate formal Inter-Departmental Concurrence, for example, in concurrence with the Minister of Finance.
Section 93: Orders, suspensions and instructions (2) The Director-General must confirm or set aside any order... (3) The DG must notify the holder within 60 days *after* the order has been confirmed or set aside...	Loopholes allow mines to be shuttered indefinitely because no timeline governs how long the DG can take to arrive at the decision to confirm or set aside an inspector's order.	**Amend Section 93(2) to read:** The Director-General must, within [specified period] calendar days from the date the initial suspension notice was served on the mine manager, formally confirm or completely set aside the order.

Current Statutory Clause (MPRDA)	Identified Bottleneck / Investment Risk	Proposed Amendment
Section 107: Regulations (1) The Minister may, by notice in the Gazette, make regulations regarding... *(j) any matter which may or must be prescribed for in terms of this Act; and* *(k) any other matter the regulation of which may be necessary or expedient in order to achieve the objects of this Act.*	Clause 107 grants the Minister extensive discretionary powers to regulate the administrative mechanics of the Act, including application forms, procedures, and conditions. However, a concern regarding this clause is its unilateral focus on the compliance burdens of the applicant, with no corresponding statutory mandate to regulate the performance standards of the Department. Although Section 107(1)(l) acts as a catch-all provision that allows regulations for "any other matter" necessary to achieve the Act's objects, the wording makes this entirely discretionary.	**Insert New Sub-clause 107(1)(p):** The Minister must publish detailed regulations prescribing maximum, mandatory processing timelines for every stage of evaluation, referral, and final execution of rights, permits, and consents.

Conclusion

South Africa's mineral endowment remains one of the most valuable in the world, yet unlocking its full economic potential requires a fundamental shift in legislative execution. The protracted decline of the mining sector is a self-inflicted crisis, driven primarily by legislative ambiguity, administrative paralysis, and unchecked executive discretion. As policymakers finalise the revised Mineral Resources Development Bill, there is a critical window of opportunity to reverse this trajectory.

By embedding strict statutory timelines across all licensing processes, codifying judicial precedents to protect capital mobility, and curtailing unilateral ministerial powers, the state can restore the policy certainty required to attract long-term, global capital. Coupling these legislative amendments with robust institutional anti-corruption measures will be essential for rebuilding a healthy, transparent project pipeline. Ultimately, resolving these binding constraints is not merely an administrative cleanup; it is a macroeconomic imperative that can firmly reposition South African mining as a sunrise industry.

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