

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

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Case no:

In the matter between:

THE CHAMBER OF MINES OF SOUTH AFRICA

Applicant

and

MINISTER OF MINERAL RESOURCES

Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the applicant intends to apply to the above honourable court for an order in the following terms:

1. Declaring that upon a proper interpretation of the *Mineral and Petroleum Resources Development Act, 2002 (MPRDA)* once the Minister of Mineral Resources or his delegate has been satisfied:
 - 1.1. in terms of section 23(1)(h) or item 7(2)(k) in Schedule II of the MPRDA that the grant of the mining right applied for or the conversion of the old order mining right will further the objects referred to in sections 2(d) and (f), in accordance with the charter developed in terms of section 100(2) of the MPRDA and applicable at the time, and grants such right or conversion, the Minister is not authorised to require the holder of the resultant right to take, and the holder of such right is not legally obliged to take, steps to further such objects outside of the terms of the

holder's mining right or approved social and labour plan or to comply with the provisions of newly revised charters from time to time;

- 1.2. in terms of sections 17(1)(f) or 17(4) of the MPRDA that the grant of the prospecting right applied for will further the object referred to in section 2(d) and grants such right, the Minister is not authorised to require the holder of the resultant right (or of any prospecting right converted in terms of Item 6 in Schedule II of the MPRDA) to take, and the holder of such right is not legally obliged to take, steps to further such object outside of the terms of the holder's prospecting right or to comply with the provisions of newly revised charters from time to time.
2. Reviewing the Reviewed Broad-based Black Economic Empowerment Charter for the South African Mining and Minerals Industry, 2016 published in Government Gazette No. 40923 of 15 June 2017 ("the 2017 Charter") in terms of sections 6(2)(i), 6(2)(a)(i) and (f)(i), 6(2)(e)(iii), 6(2)(e)(i), 6(2)(f)(ii)(aa), (bb) and (cc) and 6(2)(h) of the Promotion of Administrative Justice Act 3 of 2000 alternatively sections 1(c), 9, 25, 33, 77(3) and 213(1) of the Constitution of the Republic of South Africa, 1996.
3. Setting the 2017 Charter aside.
4. Directing the respondent to pay the costs of this application, such costs to include the costs of three counsel.
5. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **TEBELLO LAPHATSOANA CHABANA** and supporting affidavits and documents will be used in support of the application.

TAKE NOTICE, FURTHER, THAT the applicant has appointed Norton Rose Fulbright South Africa Inc care of Mothle Jooma Sabdia Inc, at the address set out hereunder at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE, FURTHER, THAT if you intend opposing this application you are required:

- (a) to deliver a notice to the applicant that you intend to oppose the application within five days of service of this application and in such notice to appoint an address as referred to in Rule 6(5)(b) within 15 (fifteen) kilometres of the office of the Registrar at which you will accept notice and service of all process in these proceedings; and
- (b) to file your answering affidavits, if any, on 10 November 2017, in accordance with the directions of the Judge President of this honourable court.

TAKE NOTICE, FURTHER, THAT the application will be made on **13 and 14 December 2017**, in accordance with the directions of the Judge President of this honourable court.

Please enrol the matter accordingly.

Dated at Sandton on this the 16th day of October 2017.

Norton Rose Fulbright South Africa Inc
Attorneys for Applicant
15 Alice Lane, Sandton
Tel: 011 685 8500
Fax: 011 301 3200
Ref: CMI259/Mr AP Vos/Ms K Kalan
Email: andre.vos@nortonrosefulbright.com
kirthi.kalyan@nortonrosefulbright.com
c/o Mothle Jooma Sabdia Inc
Ground Floor, Duncan Manor
Cnr Jan Shoba (Duncan) and Brooks Street
Brooklyn, Pretoria
Tel: 012 363 3137
Fax: 012 362 4139
Email: ebrahimj@mjs-inc.co.za
Ref: Mr Jooma/sm

To:
The Registrar of the High Court
Pretoria

And to:

Minister of Mineral Resources
c/o Office of the State Attorney, Pretoria
Attorney for Respondent
SALU Building
255 Francis Baard Street
Pretoria
Tel: 012 309 1575
Email: simathebula@justice.gov.za
Ref: Mr Sipho Mathebula
3317/15/Z51

Received on ____ October 2017

For: Respondent

And to:

Minister of Mineral Resources
c/o Goitseona Pilane Attorneys Inc
Attorneys for the Respondent
No. 72, 6th Avenue
Florida, Roodepoort
Johannesburg
Tel: 083 445 3437
Email: goitse@pilaneinc.co.za
Ref: Mr G Pilane/MMR0001
c/o VDT Attorneys Inc
Brooklyn Place
Cnr Bronkhorst & Dey Streets
Brooklyn
Pretoria
Tel: 012 452 1300
Ref: B Moatshe

Received on ____ October 2017

For: Respondent