

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES

NO. 449

20 MARCH 2019

DRAFT REVIEWED HOUSING AND LIVING CONDITIONS STANDARD FOR THE MINERALS INDUSTRY, 2019.

I, Samson Gwede Mantashe, Minister of Mineral Resources, has in terms of section 100(1) (a) of the Mineral and Petroleum Resources Development Act, 2002, (Act No. 28 of 2002), after consultation with the Minister of Human Settlements, developed the draft Reviewed Housing and Living Conditions Standard for the Minerals Industry, 2019 (draft reviewed Housing and Living Conditions Standard).

Interested and affected parties are hereby invited to submit written representations on the draft Reviewed Housing and Living Conditions Standard. The aforesaid representations must be marked for the attention of **Ms Sibongile Malie: Director Mineral Policy Development** and hand delivered, emailed or sent by post, within 30 days of publication of this notice to the following addresses;

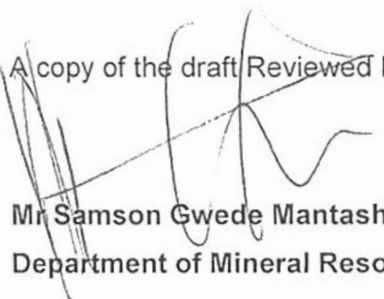
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A copy of the draft Reviewed Housing and Living Condition Standard, 2019 is attached hereto.



Mr Samson Gwede Mantashe
Department of Mineral Resources

**DRAFT REVIEWED HOUSING AND LIVING CONDITIONS
STANDARD FOR MINING INDUSTRY, 2019**

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VISION

To give effect to section 100 (1) (a) of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), sections 26(1), (2) and (3) and 27(1),(2) and (3) of the Constitution, the National Housing Act, 1997 (Act No. 107 of 1997), the National Housing Code of 2009 and other related policies and legislation by ensuring that adequate housing, healthcare services, balanced nutrition and water are adequately provided to mine employees in South Africa.

MISSION

To redress the historic and systematic marginalization of mine employees as a result of past discriminatory policies and laws with regards to their working, housing and living conditions. To provide for progressive realisation and protection of their basic constitutional right to human dignity through provision of adequate access to housing, better living conditions and related amenities of life.

PURPOSE OF THE DOCUMENT

To ensure that mining right holder's provide decent livable integrated human settlements, healthcare services, balanced nutrition, water and related amenities to mine employees.

DEFINITIONS AND ACRONYMS

“A mining right holder” means a holder as defined in the MPRDA;

“A new mining right” means a mining right granted after coming into operation of the housing and living conditions standard for minerals industry, 2019;

“Constitution” means the constitution of the Republic of South Africa, 1996;

“Days” means day/s as defined in the MPRDA;

“Department” means the department of Mineral Resources;

“Existing mining right” means a mining right which was granted prior to commencement of the housing and living conditions standard for the minerals industry, 2019;

“FLISP” means Finance Linked Individual Subsidy Programme;

“Framework agreement” refers to the Framework Agreement for a Sustainable Mining Industry entered into by organised labour, organised business and Government, 2013;

“Housing and living conditions plan” refers to the plan contemplated in item 4 of these standard;

“Housing and living conditions standard” means housing and living conditions standard for the minerals industry developed in terms of section 100(1)(a) of the Mineral and Petroleum Development Act, 2002 (Act No. 28 of 2002);

“IDP” refers to Integrated Development Plan;

“Mining Charter” means Broad-Based Socio-Economic Empowerment Charter for the Mining and Minerals Industry developed in terms of Section 100 (2) (a) of the MPRDA;

“Minister” means the Minister responsible for Mineral Resources;

“Mine employee” refers to employee as defined in the MPRDA;

“MPRDA” means the Mineral and Petroleum Resources Development Act, 2002, (Act No. 28 of 2002);

“MOU” means memorandum of understanding entered into between the mining right holder and Government Department or entity;

“**NDP**” refers to the National Development Plan, 2030;

“**Norms and Standards**” refers to norms and standards developed in terms of section 3(2) (a) of the National Housing Act, 1997 (Act No. 107 of 1997);

“**Regional Manager**” means regional manager as defined in the MPRDA;

“**Single accommodation**” means an apartment which has been built or renovated in accordance with the housing and living conditions standard intended to accommodate a single person;

“**Social and Labour Plan**” means social and labour plan provided for in terms of section 23 of the MPRDA and regulation 46 of the MPRDA;

“**Stakeholder**” refers to a person, group of persons and organisations affected or can be affected by an organisation's actions which may relate to policies intended to allow the aforementioned to participate in the decision-making in which all may have a stake; and

“**Stakeholder Declaration Strategy**” refers to the Stakeholder Declaration on Strategy for Sustainable Growth and Meaningful Transformation of South Africa's Mining and Minerals Industry, 2010.

1. Introduction and scope

The location of the mining operations, which in most cases tends to be far from existing settlement, has necessitated the employers to make provision for housing as an undertaking to be part of the infrastructure required to develop a mine. In the late nineteenth century, since the beginning of modern mining industry, which was characterised by barracks of single sex hostels, which was the cornerstone of the segregation policy had compromised the privacy and dignity of the mine employees. The lack of proper housing and living conditions and non-adherence to nutritional diet for majority of employees in the mining and minerals industry were of substandard nature, adversely impacting on their social lives, health and productivity.

The appalling living conditions under which black mine employees were made to live before the advent of democracy led to a myriad of social ills, including the destruction of the social fabric of community, substance abuse, as well as the contribution and spread of diseases particularly tuberculosis and HIV/AIDS. To address the above challenges the industry stakeholders committed through the Stakeholder's Declaration on Strategy for the Sustainable Growth and Meaningful Transformation of South Africa's Mining Industry, 2010 to restore human dignity of mine employees in line with the Constitution by attaining the occupancy rate of one person per room, upgrading or conversion of hostels into family units, provision of home ownership options and balanced nutrition.

Although the South African mining industry has made noticeable inroads in progressively upgrading hostels and converting them to single accommodation units there is still a long way to go before attainment of adequate and livable housing and living conditions for mine employees. Even though many hostels were converted into single and family units more work still needs to be done to

address the broader objective of ensuring that mine employees live in decent accommodation.

Government recognises the industries' strides and various initiatives aimed at progressive realisation of human dignity and decency for mine employees. The collaborative initiatives by all relevant stakeholders including the Special Presidential Package on revitalisation of ghost mining towns, Operation Phakisa process, and framework agreement, are commended and must be pursued and the implementation thereof be expedited.

Government realises that the location of the housing and living conditions standard as an element of the Mining Charter is untenable and deprives this aspect of the mining industry of its prominence.

The overall objective of this document is therefore to provide for strengthened housing and living conditions standard with clearly defined principles, processes, timelines and enforcement measures to progressively eradicate the injustices to which mine employees were and are subjected to, consistent with section 100(1)(a) of the MPRDA, provisions of the Constitution and related regulatory instruments.

2. Mine employees housing conditions principles

To give effect to adequate and decent housing for mine employees current and future housing needs, the following principles are applicable:

2.1 Develop social, physical and economic integrated housing development within a mine community

- (a) A right holder shall after consultation with other stakeholders acquire land within close proximity of the mine operations and plan housing needs in support of compact, integrated and mixed land use environment;
- (b) The housing development must consider and be based on the integrated development plans (IDP's) and provincial development framework within their area of jurisdiction;
- (c) Housing development must be done in a location conducive for the development of a residential area;
- (d) The housing or accommodation of mine employees shall be administered on non-racial and non-ethnic lines;
- (e) Such development must address social facilities and adequate space to accommodate recreational facilities to ensure the elimination and prevention of slums conditions;
- (f) A mining right holder must promote housing delivery for a range of income groups in such a manner as to allow integrated and/or state subsidy to cater for low income earners;
- (g) Housing development must be administered in a transparent, accountable and equitable manner and uphold the practice of good governance.

2.2 Measures to address the housing demand

- (a) A mining right holder must make sufficient provision to respond adequately to the housing needs of employees consistent with its growth plans;
- (b) A mining right holder must offer employees a range of housing options which includes, amongst others rental accommodation, home ownership, government led social housing and living out allowance;

- (c) Housing options must where feasible include single and family accommodation and home ownership within places of origin or residence and the place of work; or rental flexibility considering their occupational mobility and a need for temporary accommodation;
- (d) Home ownership schemes/allowance shall also be applicable to mine employees currently receiving rental accommodation/allowance.
- (e) Housing provided by the employer shall be redeveloped or developed to have access to electricity, facilities for hot water supply and running water, basic fixtures and fittings in rental stock and access to ablution facilities.

2.3 Ensure the involvement of employees in the housing administrative systems

- (a) The employer must encourage and support its employees to ensure that their housing needs are addressed; and
- (b) The employer must put measures in place to educate, train and inform employees of the housing options offered by a mining right holder.

2.4 Promote best practices and compliance with minimum norms and standards in relation to the delivery and management of housing:

- (a) A mining right holder must comply with the National Minimum Norms and Standards approved by the Department of Human Settlement for the construction of housing, homeownership and rental;
- (b) Ensure consistency in housing delivery and the maintenance of acceptable level of quality and sustainable housing development;
- (c) A mining right holder must ensure that procurement for housing development is conducted in line with the requirements of the applicable Mining Charter.

- (d) Where a mining right holder builds new rental accommodation, such accommodation must comply with the National Minimum Norms and Standards for Permanent Housing Structures as well as the National Minimum Norms and Standards for High Density Residential Buildings approved by the Minister of Human Settlements.

2.5 Promote the use of financing schemes in a transparent and accountable manner:

- (a) Transparency in decision making process, information exchange, accountability and efficiency in the administration of the financing scheme is essential for the successful establishment of housing;
- (b) Financing schemes should be used to improve employees housing and living conditions;
- (c) Housing as part of the remuneration package should be negotiated through collective bargaining;
- (d) The employer must inform its employees of the available financing schemes for home ownership; and
- (e) The employer must involve employees in the form of organized labour during negotiations with financial institutions.

3. Housing options

3.1. Existing mining rights

In order to comply with the housing and living conditions an existing mining right holder must within a period of six months from the date of publication of these standard, submit a detailed Housing and Living Conditions plan indicating the following:

- (a) Maintenance of single and family units in line with the National Norms and Standard approved by the Minister of Human Settlement;
- (b) Where applicable, a detailed plan to finalise single and family units hostel conversion upgrades;
- (c) A three year detailed plan to phase out living out allowances where verifiable decent accommodation cannot be proven and verified;
- (d) Current and future housing option schemes/allowances ; and
- (e) In addition to a detailed plan referred to above, submit an agreed (between the right holder and organized union) Employer Assisted Home Ownership Scheme consistent with its growth plans.

3.2 New mining rights

- 3.2.1 A new mining right holder must within a period of twelve months from the date of publication of the standard consult with organized labour, relevant municipality and the Department of Human Settlements and enter into a housing and living conditions agreement with organized labour regarding its mine employee housing and living conditions needs.
- 3.2.2 The mining right holder must upon reaching an agreement with organized labour develop an Employer Assisted Housing Scheme.
- 3.2.3 The scheme referred to in paragraph 3.2.2 must be signed by the mining right holder and organized labour and must be submitted to the department within 21 days from the date of signing.
- 3.2.4 The signed scheme must make provision for the following housing options:
 - (a) Private home ownership

- (b) Government Led Housing;
- (c) Rental accommodation; and
- (d) Living out allowance.

3.2.5 The scheme must also make provision for differentiated financial solutions for mine employees.

3.3 Private home ownership

This type of home ownership refers to ownership where the employee is fully responsible for the payment of the mortgage bond including any subsidies agreed with the employer.

3.3.1 A mining right holder who builds houses or subsidises its employees for building packages or for purchasing an already existing house, either in the place of origin or place of work/residence, must ensure that such housing is integrated with existing human settlements in line with the Department of Human Settlements policies on Sustainable Integrated Human Settlements.

3.3.2 Where a mining right holder build houses for home ownership purposes such mining right holder shall remain responsible for identification, purchasing and rezoning of such land.

3.4 Government led home ownership

Government led home ownership (FLISP) is a subsidy instrument intended to assist qualifying households in the affordable gap housing market by providing a once-off payment to those households who have secured mortgage finance or bond to acquire a residential property for the first time.

To ensure that employees falling within the affordable gap housing market have access to the FLISP, a mining right holder must;

3.4.1 After consultation with organized labour identify qualifying mine employees falling within this category and facilitate acquiring of FLISP for such mine employees.

3.4.2 Negotiate conducive terms and conditions of the mortgage finance or bond issued by a private financial institution for this category of mine employees;

3.4.3 Ensure that affordable housing market is integrated with existing human settlements.

The government led housing option does not absolve the mining right holder from the responsibility to provide decent housing to its mine employees.

3.5 Rental Accommodation

3.5.1 A mining right holder must subsidise mine employees for rental accommodation built by such mining right holder or provided by third parties in line with the agreed housing and living conditions plan.

3.5.2 Where a mining right holder is developing rental accommodation, such mining right holder must after consultation with the relevant local government and organized labour identify a land/area or an area zoned for human settlement for purposes of developing housing projects for its employees.

3.5.3 The identified land/area must be integrated with an existing human settlement within a local municipality, metropolitan or a district municipality.

3.5.4 The identified land/area may be owned privately, by a mining right holder or local government. The responsibility to secure the land/area rests with a mining right holder.

3.5.5 Where rental accommodation is provided by a third party, the mine employee must submit proof of decent verifiable rental accommodation.

3.5.6 A rental subsidy shall not be payable to mine employees without proof of decent verifiable rental accommodation.

3.5.7 Rental accommodation must include single and family units based on the needs of mine employees and as per the agreement reached between the mining right holder and organized labour.

3.6 Living Out Allowance for housing purposes

3.6.1 A mining right holder must after consultation with organized labour determine a living out allowance payable to a mine employee who is not receiving any rental or homeownership subsidy from the mining right holder;

3.6.2 A living out allowance shall be payable to an employee who has proof of decent and verifiable accommodation; and

3.6.3 Mine employee who was previously receiving a rental or living out allowance and decides to purchase a house or unit in the open market shall forfeit such allowance and apply for the home ownership scheme/allowance.

4 Minimum basic services applicable to new and existing mining rights

A mining right holder must adhere to the minimum basic services prescribed (water, electricity, roads, sanitation etc.) by the department of Human Settlement.

5 Basic features of a single unit and family unit

5.1 A right holder must ensure that the development/construction of any form of accommodation is in line with the approved minimum standards published by the National Department of Human Settlement.

6 Partnerships with government departments and/or entities of government

6.1 In most mine communities, bulk infrastructure is owned by mining companies as opposed to the local municipality. In such a case a mining right holder may partner with government or entities of government, other mining companies operating within the same mine community and other private sector role players to deliver decent human settlement for its employees.

6.2 Therefore the approach to existing and new cooperative partnerships may entail the following:

- a. Greater alignment of the various economic and social players;
- b. Project development structuring, end-user finance, the blending of accommodation of employees and mine community members; and
- c. Sharing of available infrastructure with municipalities for social purposes other than mining.

6.3 In this regard, a mining right holder must:

- (a) Enter into a written agreement through an Memorandum of understanding with a government department and/or a government entity and/or one or more mining right holders where there's more than one mining right holders operating within the same mine community, to give effect to the objects and principles of the Standards and provide decent housing and living conditions to mine employees.
- (b) The MOU Protocols may relate to a portion of the housing project such as bulk infrastructure, or mining right holders may collaborate on the entire housing project for mine employees within the same mine community on condition that there's agreement with the concerned organized labour and upon approval by the department.

- (c) The MOU referred to in paragraph (a) above must be submitted to the department. The MOU must indicate clear roles and responsibilities for each party.
- (d) Where the partnership referred to above has linkages with or impacts on the mining right holders approved Social and Labour Plan and requires amendment of the approved Social and Labour Plan, such mining right holder must apply to the department to amend the approved Social and Labour plan as provided for in terms of Section 102.

7 Principles for living conditions

Sufficient, suitable and adequate employee living conditions are crucial components linked to productivity of mine employees and must be provided for at an affordable, equitable and sustainable manner by the mining right holder. In order to ensure employees decent living conditions, a mining right holder must provide:

- (a) Primary health care services for the mine employees;
- (b) Affordable, equitable and sustainable health care schemes for the employees.
- (c) Sufficient, suitable balanced nutrition and portable water; and
- (d) Clean, safe and healthy environment.

8 Housing and Living Conditions Plan

Human dignity and privacy for mine employees are the hallmarks to enhance productivity and expedite transformation in the mining industry in terms of housing and living conditions. In this regard an applicant for a mining right must, taking into account the principles enshrined in this standard, prepare and submit a preliminary Housing and Living Conditions plan as outlined herein for approval.

8.1 Submission and approval of a Housing and Living Conditions Plan

- 8.1.1 An application for a mining right in terms of section 22 of the Act must be accompanied by a preliminary housing and Living Conditions Plan based on the applicant's employment forecast.
- 8.1.2 The final housing and living conditions plan must be finalised after consultation with organised labour within twelve (12) months from the date of commencement of operations and must be submitted to the department within twenty (21) days from the date of signing.
- 8.1.3 If the Regional Manager is of the view that the final plan is not in line with the Standard the Regional Manager may refer the said plan back to the mining right holder with proposals for amendment and the revised Housing and Living Conditions Plan must be re-lodged within a reasonable period which must not exceed 30 days.
- 8.1.4 When granting a mining right, the Minister must take into account the applicants commitments in terms of the housing and living conditions plan and the extent of compliance to the principles embodied in this standard.
- 8.1.5 The final plan shall form part of the terms and conditions of a mining right.

8.2 Contents of a Housing and Living Conditions Plan

To comply with this standard, an applicant for a mining right must prepare and submit for approval a Housing and Living Conditions Plan. The plan must be integrated with the municipality's housing plan and be consulted with representatives of trade unions, municipalities and related stakeholders.

In order to meet the requirements of these Standards and comply with the provisions of the Act, a Housing and Living Conditions Plan must address amongst, others, the following issues:

- (a) Provide the current status of available accommodation for employees and a targeted response to specifically quantified and profiled housing needs of employees;
- (b) Provide current status of houses within the community;
- (c) Provide the municipality's strategy to address housing;
- (d) Preferred options for housing and living conditions of the mine employees;
- (e) Where applicable provide the status of progress in converting or upgrading of hostels into single quarters and family units;
- (f) An Employer Assisted Housing Scheme;
- (g) Mine closure and post mining development.

8.3 *Applicability of a Housing and Living Conditions Plan.*

An approved Housing and Living Conditions Standard and any other related plan shall be applicable for the duration of a mining right and may be reviewed every five years.

8.4 *Non-Compliance with the approved Housing and Living Conditions Plan.*

Non-compliance with the approved Housing and Living Conditions Plan will render a mining right holder to be in breach of the MPRDA and subjected to the provisions of section 93, 98, 99 and 47 of the Act.

8.5 *Reporting on the approved Housing and Living Conditions Plan.*

A holder of a mining right or the manager of any processing plant operating separately from a mine must submit to the Director-General an annual report detailing the holders compliance with Housing and Living Conditions Standard contemplated in section 100 and the approved Housing and Living Conditions Plan.

8.6 *Amendment of the approved Housing and Living Conditions Plan.*

A Housing and Living Conditions Plan may not be amended or varied without the consent of the Minister after the granting of a mining to which such Housing and Living Conditions Plan pertains consistent with section 102 of the Act.

9 *Review of the Housing and Living Conditions Standards for the South African Mining and Minerals Industry.*

The Minister may, after consultation with the Minister responsible for Human Settlements, review the Housing and Living Conditions Standard for the South African Mining and Minerals Industry by notice in the Government gazette.

10. Compliance measures and Score Card

(a) Compliance with the requirements of the Standard is mandatory and shall be in accordance with the following scorecard:

Existing mining rights

Element	Description	Compliance target (%).	Measure	Weighting
Housing and living conditions Plan	(1) A plan outlining: (a) Maintenance of single and family units, (b) hostel conversion upgrades (c) Current or future housing options/schemes; and (d) Employer Assisted Home Ownership Schemes.	100%	(a) Was the plan submitted within 6 months? (b) Does it address all issues as per description column?	Y/N
Partnerships with Government Department/Entities	In the form of MOU's in respect of infrastructure	100%	Has the mining right holder entered into any partnerships with Departments/Entities?	

New mining rights

Element	Description	Compliance target (%)	Measure	Weighting
Housing and living conditions Plan	Plan outlining commitments to comply and implement the Housing and living Conditions principles.	100%	(c) Was the plan submitted within 6 months? (d) Does it address all the principles of Housing and living Conditions?	Y/N
Housing and Living Conditions agreement and Employer Assisted Housing Scheme	Agreement concluded with organised labour and scheme outlining various housing options offered.	100%	Was the agreement concluded within 12 months and the Scheme submitted with 21 days?	
Partnerships with Government Department/Entities	(2) In the form of MOU's in respect of infrastructure	100%	(e) Has the mining right holder entered into any partnerships with Departments/Entities?	