

South Africa's mining sector in lockdown & after Covid-19

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With the Covid-19 lockdown in full effect until the end of April, and the potential for yet another extension still looming, South Africa's mines have scaled down operations massively. Given that labour is the most significant cost - and human resource - for many mines, and the country is heavily reliant on foreign earnings from mineral exports, Covid-19 could represent the sucker punch for mines and the economy.



Image source: Getty/Gallo

A scale down in operations could also mean a scale down in employees – which SA can ill afford with one of the highest unemployment rates currently sitting at 38%. Economists already predict that South Africa could shed a further one-million jobs in 2020.

Chief economist for the Minerals Council of South Africa, Henk Langenhoven, warned that the industry was set to lose R1.5bn-a-day (\$86m) at a time when it can ill-afford it, in an industry that earns 24% of the country's foreign currency every year.

Other analysts believe that the mining industry has over the past three decades faced adversity on many fronts - from communities, Eskom, government and organised labour - and have proved themselves resilient and should be able to navigate the lockdown. However, the Minerals Council says that though the weak rand provides a short-term benefit, SA's credit rating downgrade will ultimately have a significant influence on investment in equities and the cost of borrowing, both of which will affect fixed investment in mining.

Is it all doom and gloom? Or is the industry, which has navigated many preceding challenges, able to push through once the lockdown ends?

What is government doing to provide relief, and what more could be done by government and the private sector to navigate through this uncertain and challenging time?

Is there a difference between what your rights are in law, and what one should do amidst a lethal pandemic where it is in all our best interests to keep the wheels of our economy turning?

There are many legal, social and even moral questions that need answering as South Africa fights to flatten the curve in one of the greatest socio-economic and healthcare crises the country, and indeed the world, has ever faced.

In this [podcast](#), Webber Wentzel's Mining specialists unpack a number of burning issues in key areas impacting the mining sector:

Regulatory: Rita Spalding, partner

1. What specific regulations apply to mining operations during Covid-19?
2. Which commodities and activities are exempt and how does one obtain an exemption?
3. How do mining companies transport goods which are essential?
4. What are the obligations on mining companies with regards to the submission of returns and reporting?
5. What regulations should the government apply after lockdown to help bolster the industry?

Employment: Lize Louw, partner

1. Post lockdown, what are employers' obligations in this situation in relation to paying employees who are not working, as well as regards to retrenchment as a result of the financial strain of Covid-19?
2. What assistance will be available from government to help employers cover labour costs post lockdown?
3. What else will employers be able to do to assist employees?

Contracts and disputes: Merlita Kennedy, partner

1. Can the force majeure be invoked in the case of a mine that is unable to fulfil its contractual obligation to its customers? What can a mine do if it does not have a force majeure clause, to protect itself against being sued for non-delivery?
2. Will Covid-19 set a precedent that will require new clauses to be inserted in contracts in future?
3. What are the options for pursuing arbitration/mediation during the period when South Africa's courts are only open for hearing a limited range of urgent matters?

Occupational health & safety: Kate Collier, partner

1. What measures do mines have to take to protect employees' health and safety during the Covid-19 outbreak and once miners return to work?
2. Where does the mine's responsibility end? Is the employer responsible if its employees staying in hostels or mine villages contract Covid-19?

Tax: Nirvasha Singh, partner

1. What tax relief (including employee tax and others, such as customs duties) is available to the mines, both throughout Covid-19 lockdown and afterwards?
2. Is this sufficient? What more could the government do from a tax perspective to help mines recover from the

lockdown?

Environmental: Garyn Rapson, partner

1. How easy it is for mines to come out of care and maintenance and what tips should they be aware of?
2. What environmental considerations should mines be thinking of to manage the risk of Covid-19 when operations re-commence?

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