

# Draft Financial Provision and Mine Closure Regulations

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Environmental Affairs  
REPUBLIC OF SOUTH AFRICA



# Financial Provisioning

- The financial provision is the total cost of:
  - On-going or progressive rehabilitation;
  - Decommissioning & closure at the end of life of mine; and
  - Remediation of latent or residual environmental impacts.



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# Financial Provisioning

- Methods for providing for the financial provision:
  - an approved contribution to a trust fund as required in terms of section 10(1)(cH) of the Income Tax Act, 1962 (Act No. 58 of 1962) in the prescribed form;
  - a financial guarantee from a South African registered bank or any other bank or financial institution approved by the Minister guaranteeing the financial provision;
  - a cash deposit into the account specified by the Minister responsible for mineral resources
- The Minister will determine the format for establishing the trust fund & guarantees



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# Financial Provisioning

- For a new mine - at any time the amount must be equal to the sum of the financial provision calculated as follows:
  - The assessed cost for implementing the decommissioning and closure plan over the remaining life of the mine
  - The assessed cost for remediation of latent or residual environmental impacts identified in the environmental risk assessment
  - The assessed costs of implementing the on-going and progressive rehabilitation plan



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# Financial Provisioning

- For an existing mine, at any time, the amount must be equal to the total sum assessed for the mining activities from commissioning to date determined as follows:
  - The assessed cost for implementing the decommissioning and closure plan over the further life of mine
  - The assessed cost for remediation of latent or residual environmental impacts identified in the environmental risk assessment plan
  - The assessed costs of implementing the rehabilitation plan
- The calculation must be made within the first year of coming into effect of these regulations and required amount must be identified in the first audit report submitted



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# Financial Provisioning

- Where the current trust, bank guarantee or cash deposit does not meet the required provision the holder must:
  - immediately supplement the trust fund, bank guarantee or cash deposit to meet the required amount and include the proof of payment with the audit report; or
  - with the first audit report, submit a payment plan for approval by the Minister to bring the financial provisioning amount in line with the required amount, and proof of payment according to the approved payment plan with the annual audit report thereafter.



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# Annual assessment & adjustment of the financial provisioning

- The holder must assess the adequacy of the financial provision annually through an audit procedure
- This must be done on the basis of the assessment and the anticipated production rate for the next year
- The results of the assessment and the financial provision adjustment must be submitted to the DMR in the form of an auditor's report
- The auditor's report must be accompanied by proof of the necessary adjustment being made to the financial provision



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# Preparation & implementation of associated plans for financial provisioning

- Plans required for determination of the financial provision and to be submitted with the EMPr include:
  - Rehabilitation plan for the next year
  - Decommissioning and closure plan
  - Environmental risk report
- Required content of the plans will be identified in annexures to the regulations
- EMPr audited every 3 years, must include the annual audit reports of the financial provision and plans compiled by an independent specialist



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# Deemed Closure

- A holder is deemed to be going through closure if -
  - the average production for the calendar year under consideration decreases by more than 60% from the previous calendar year calculated on the last day of the current year; or
  - the work force is reduced by 90% as compared to the previous calendar year,
  - a care and maintenance plan has been in place for five years.
- If any of the aspects above occur the Minister of Mineral Resources may deem a mine to be going through closure and notify the holder.
- The holder must then within 90 days either -
  - submit an environmental risk assessment plan and decommissioning and closure plan to the Minister for approval; or
  - submit a care and maintenance plan to the Minister for the approval; or
  - object to the notification and submit in writing a detailed explanation of the merits against deemed closure.



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# Care and Maintenance

- A holder may apply, at any time, to the Minister of DMR to be placed under care and maintenance.
- An application must include -
  - a detailed explanation of the merits by the person to be placed under care and maintenance; and
  - a care and maintenance plan for approval by the Minister
- A person may only be placed under care and maintenance plan for a period of five years thereafter an application for mine closure certificate accompanied by a decommissioning and closure plan must be submitted
- A care and maintenance plan must be audited annually and updated in relation to the audit findings



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Thank You



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