

# AMENDMENTS TO THE LEGISLATIVE FRAMEWORK SINCE BELTCON 20

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## 1. INTRODUCTION

The history of South Africa cannot be fully understood without taking into account the impact of mining on not only the development of the state, but also in how it shaped society at large.

Topics with their genesis in mining, such as Apartheid era job reservation and the rise of organised labour as political kingmaker, have indelibly left their mark on South African society in much the same way that mining has impacted on the South African economy, contributing to making it the continent's most industrialised nation.

This is a constant and evolving process, as is the way in which the legislation dealing with mine health and safety is amended and updated over time based on current issues in the industry.

This paper aims to discuss the major amendments (and proposed amendments) to the legislative framework insofar as these amendments impact on the use of conveyor installations specifically, but also considers how the mining industry in general, as a prime user of conveyor installations, will be affected.

In short, the goal is to investigate the changes to the Mine Health and Safety Act and Regulations from Beltcon 20 (August 2019) to date.

### 1.1. LEGISLATION AS A REACTIVE CONTROL

*"Health and Safety Regulation is written in blood".*

As hackneyed and cliched as this may sound, this statement does find unfortunate resonance in the South African Mining Industry.

The below table lists the most significant South African mining disasters:

Mine	Year	Fatalities
Coalbrook	1960	437
Kinross	1986	177
Durban Navigation Collieries	1926	125
Vaal Reefs	1995	104
Natal Navigation Collieries	1923	78

New Marsfield Collieries	1935	78
Hlobane Colliery	1938	68
St. Helena Gold Mine	1987	62
Hlobane Colliery	1944	56
Middelbult Colliery	1993	53

Table 1. Significant South African Mining Disasters<sup>i</sup>

A brief investigation of the last 100 years' health and safety legislative development shows a clear correlation between significant mining disasters and legislative development and regulation.

The Vaal Reefs disaster of 10 May 1995, in which a 104 mineworkers died when a locomotive proceeded into a shaft, directly impacted on the scrapping of the Minerals Act and its replacement with the Mine Health and Safety Act in 1996.

While clearly reactive, the impact of mining accidents on legislation is evident and also impacts on the development of legal prescriptions related to conveyor installations. The below table lists three underground mining accidents involving fires related to conveyor belt installations:

Mine and description	Year	Fatalities
Mimosa Platinum Mine Zimbabwe – Conveyor belt installation in main decline caught fire, 75 employees rescued	2012	None
Impala Platinum 14 Shaft – Fire in main decline, fatalities due to heat, smoke and gas inhalation	2016	4
Palabora Mining Company – Underground conveyor C5 fire	2018	6

Table 2. Significant fire related conveyor belt installation accidents

As will be discussed in this paper, the risks associated with conveyor belt installations and, specifically fire, have received increased attention from the regulator.

## 1.2. CONTEXT AND BACKGROUND

A previous Beltcon paper<sup>ii</sup> explained the hierarchy of health and safety legislation in the South African Mining Context. In short, while the Constitution has overarching application, the basic human rights it enshrines are manifested in the Mine Health and Safety Act.

The Mine Health and Safety Act itself does not deal with specific day to day activities taking place on a mine, but details the principal duties of the key role players in addressing health and safety concerns in general. As such, it mostly focuses on the duties of the employer (holder of the mining right) but also addressed the duties of employees and others, specifically also addressing the duties of the designer, manufacturer, supplier and erector or installer.

A typical example of this broad approach taken in the Act is found in Section 5(1)

*“As far as is reasonably practicable, every employer must provide and maintain a working environment that is safe and without risk to the health of employees.”*

In addition to setting the broad framework for managing health and safety, the Act also serves as enabling legislation insofar as it allows for the Minister of Mineral Resources and Energy, firstly, to create Regulations on any topic deemed necessary to give effect to the Act and, secondly, to incorporate any standard or code of practice into a Regulation. This is more specific in nature and deals with practical day to day operations on a mine. An example would be Regulation 8(9)(1)(c):

*“the driving machinery of the conveyor belt installation can be stopped by any person from any point, along its length where access to the belt is possible”*

The last level of legal prescription dealt with in this paper is where an Inspector of Mines gives an Instruction, including one under Section 54 of the Act. It is telling that the definition of the words “*this Act*” is defined as including:

*“...any condition, suspension, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the Minister, Chief Inspector of Mines, an inspector, any person authorised under section 49(4) or any person to whom a power has been delegated or the performance of a duty has been assigned under section 96;*

The implication is thus that an individual inspector, to an extent, can create legal obligations, the non-compliance with which constitutes a contravention of the Act.

In summary, the following legal references, listed in descending legal hierarchy will be dealt with insofar as they have an impact on conveyor installations, its manufacture and design and, ultimately, its use:

- i. Amendments to the Mine Health and Safety Act,
- ii. Amendments to the Mine Health and Safety Act Regulations,
- iii. Amendments to Mandatory Codes of Practice and Incorporated Standards, and
- iv. Orders, instructions, notices etc.

## 2. AMENDMENTS TO THE MINE HEALTH AND SAFETY ACT.

The Mine Health and Safety Act, 29 of 1996, is the primary source of legal obligation for health and safety obligations in the mining industry. It came into effect on 15 January 1997. It was last amended in 2009.<sup>iii</sup>

The Draft Mine Health and Safety Bill was published for comment on 15 June 2022.<sup>iv</sup>

It consists of 41 Sections, aiming to amend significant portions of the Mine Health and Safety Act, 29 of 1996. While some of the issues dealt with are purely administrative, some of the proposed changes will have a significant impact on the mining industry in general and potential liability specifically should it be adopted in its current guise.

### 2.1. REMOVAL OF REFERENCES TO “AS FAR AS IS REASONABLY PRACTICABLE”

One of the more significant issues is the removal of the reference to the words *as far as is reasonably practicable* in Section 10. This is ominous as a principle. One of the key considerations of the Mine Health and Safety Act’s approach as opposed to that which went before, was to adopt a risk based approach. In fact, the memorandum on the objects of the Mine Health and Safety Bill, 2008 stated the following:

*The MHSA is premised on the principle that the responsibility for health and safety lies with the employers (owners of mines), hence the outcome-based approach, which focuses on outputs (results) rather than the rule-driven, prescriptive approach of the previous regulatory system under the now repealed Minerals Act, 1991 (Act No. 50 of 1991).<sup>v</sup>*

Section 102 defines reasonably practicable as:

*"reasonably practicable" means practicable having regard to –*

1. *(a) the severity and scope of the hazard or risk concerned;*
2. *(b) the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk;*
3. *(c) the availability and suitability of means to remove or mitigate that hazard or risk; and*
4. *(d) the costs and the benefits of removing or mitigating that hazard or risk;*

In essence, where a risk based approach had been prescribed before, the removal of references to *reasonably practicable* creates absolute obligations, not based on risk.

An example of a Section significantly impacted by the proposed amendments:

Section and context	Implication
10 Health and Safety Training	The removal of the reference to <b>as far as is reasonably practicable in subsections 1 and 2</b> fundamentally removes the principle of following a risk based approach for the provision of training. The implication is that

	employees must be trained and confirmed to be familiar with all work associated hazards and risks.
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Table 3. Significant Sections impacted by the proposed amendments

## 2.2. AMENDMENTS WITH ADMINISTRATIVE IMPACT

Many of the proposed amendments will have the potential to impact the mining industry from an administrative perspective. This should be seen against the backdrop of the already considerable powers given to the Inspectorate, for example to issue Section 54 stop notices where an inspector *has reason to believe* that any occurrence or practice at a mine may endanger the health and safety of any person.

42 Mine Health and Safety Council	<p>The Mine Health and Safety Council is the body set up under the auspices of the Act with the function of advising the Minister. An additional State member is now included.</p> <p>The chair of the Mine Health and Safety Council, by default, is the Chief Inspector. Originally, as the state was allowed 4 representatives, this meant that the state, employers and employees had equal representation (each having 5 members). The amendment would automatically provide the State with most members on the council.</p>
43 Council's Duties	<p>Three additional subsections are added. They deal with:</p> <ol style="list-style-type: none"> <li>1. The creation of an administrative fine fund,</li> <li>2. The use of the fund to promote health and safety in mining,</li> <li>3. Use of the fund is subject to approval by the Minister,</li> </ol> <p>Oversight over the use of funds, given the increase in membership by the state of the MHSC, is not fully explained.</p>
47 Inspectorate of Mine Health and Safety established	<p>4 new subsections are added. They deal with:</p> <ol style="list-style-type: none"> <li>1. The Minister's duty to appoint Principal Inspectors,</li> </ol>

	<ol style="list-style-type: none"> <li>2. The Minister’s duty to appoint a medical inspector,</li> <li>3. The Minister’s duty to appoint inspectors,</li> <li>4. Minister’s duty to issue appointed persons with certificates,</li> <li>5. Giving the Minister the right to enter into written agreements in order to allow for persons to perform the functions of an inspector and the duty to give such persons the prescribed certificate.</li> </ol> <p>It is of concern that the Political Head of Department is given the right to appoint operational staff as the duty to appoint has been removed from the Chief Inspector.</p> <p>It is of further concern that the legislative function and the executive function may be seen as converging under the Minister.</p>
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Table 4. Proposed amendments with administrative impact

## 2.2. TARGETING THE CHIEF EXECUTIVE OFFICER AS EMPLOYER REPRESENTATIVE

Another key area addressed by the proposed amendments relates to punishment for contraventions, with a specific focus on the role of the chief Executive Officer through the incorporation of a new proposed Section 86A. The proposed Section 86A is based on the previously proposed Section 86A first mooted under the 2008 Amendment Bill, but which was ultimately, at the time, not promulgated.

It makes it an offence for the employer where a person is killed as a result of the employer not complying with a duty under Chapter 2 of the Act. The proposed addition holds:

1. That an instruction prohibiting an act or omission is not deemed to be proof that reasonable steps were taken by the employer,
2. That it is not a defence if the death or disease was caused by an employee if the act or omission fell within the scope of authority or employment of the employee.

Section 86(2) incorporates the principal of vicarious liability of the employer. It holds that where:

1. A CEO, manager, agent or employee commits an offence,
2. Where the offence is within their scope of authority, and
3. Where the offence would have been an offence for the employer,
4. The employer is equally liable, IF

5. The employer connived with or permitted the act by the employee, OR
6. Did not take all reasonable steps to prevent the act or omission,

Section 86(3) is added which confirms that an instruction prohibiting an act or omission is not deemed to be proof that reasonable steps were taken by the employer.

### **2.3. INCREASE IN QUANTUM OF FINES**

Another area seeing potentially significant amendment is the issue of punishment for contraventions of the Act. Section 92, which details penalties, is proposed for amendment by scrapping subsection (1) to (5) and replacing it with a new Subsection 1.

In effect, this scraps the Annexure 8 table prescribing maximum punishment for specific Sections of the Act and the 6 months maximum term of imprisonment where no other fine is specifically prescribed.

This is replaced with a new subsection 1 which makes the maximum fine the greater of 10% of the turnover of the employer or 10% of the value of the employer's exports from South Africa, or a term of imprisonment determined by a competent court. Interestingly, this is a carbon copy of the punishment provisions under the Competition Act<sup>vi</sup>, which has seen settlements of up to R 1, 5 Billion with a South African steel producer. The approach under the Competition Act has been criticised as being overly punitive and based on the actual ability to pay a fine.<sup>vii</sup> The 10% provision may further have the implication that operations, specifically emerging, small scale and artisanal mines, will not be able to continue with operations.

If the intention is to close mining operations, this may be done through the current Section 92(6), which allows for mining permits to be withdrawn.

### **3. AMENDMENTS TO THE MINE HEALTH AND SAFETY ACT REGULATIONS**

While the Act (as dealt with above) contains the framework for regulating health and safety in a mining environment, the Regulations contain the day to day practical legal prescriptions.

While the Regulations are colloquially referred to as the Mine Health and Safety Act Regulations, the Regulations take two distinct forms:

1. Mine Health and Safety Act Regulations<sup>viii</sup>, promulgated under the new Act after 1996, and
2. Minerals Act Regulations<sup>ix</sup>, adopted under the Minerals Act but originally promulgated under the Mines and Works Act, 1956, all of which, by default predates the Mine Health and Safety Act

The existence of two sets of Regulations applying to the mining environment is a result of the history of the development of the mining legislation. When the Minerals Act replaced the Mines and Works Act in 1991, it adopted the Mines and Works Act Regulations and when it in turn was replaced by the Mine Health and Safety Act in 1996, Schedule 4 of the new Act adopted the previous Regulations. A recurring theme since 1997 has been the repeal of old Regulations, and the making of new Regulations dealing with the same topic under the Mine Health and Safety Act. This process has however been slow, and while it is ongoing, leads to a situation where both old and new Regulations remain in force for a given topic.

While both sets of Regulations contain prescripts which may apply to conveyor belt installations, being mechanical and electrical installations, the Mine Health and Safety Act Regulations contain specific Conveyor Regulations.

### 3.1. REGULATION 8.9 CONVEYOR BELTS

The current Conveyor Belt Regulations were initially inserted in 2008<sup>x</sup> and were last amended in 2013<sup>xi</sup>.

Regulation	Topic
8.9	Definitions
8.9(1)	Prevention of injury due to rotating or moving parts and components
8.9(2)	Prevention of harm due to falling mineral/material
8.9(3)	Prevention of harm due to fire
8.9(4)	Duty to prevent build-up of material with potential to cause harm
8.9(5)	Duty to take steps to prevent harm due to lightning
8.9(6)	Incorporation of SANS 10266:2006 Edition 1 on man riding belt conveyors
8.9(7)	Determination that references in SANS 10266:2006 are not normative
8.9(8)	Duty to test safety devices at set frequencies
8.9(9)	Duty to draft a procedure on belt splicing, joining and reparation.

Table 5. Key concepts regulated under Chapter 8.9

Legal amendment has a long lead time, and the prevalence of fire related conveyor belt incidents and accidents (or the perception thereof, see Table 2 above) set the wheels for legislative change in motion.

### 3.2. PROPOSED AMENDMENT OF REGULATION 8.9 CONVEYOR BELTS

Proposed amendments to the Chapter 8.9 Conveyor Belt Regulations are considered under the auspices of the Mining Regulation Advisory Committee under the auspices of the Mine Health and Safety Council in its function of advising the Minister on amendments to legislation.

Workstreams were set up involving the State, organised labour and employers (represented by amongst others the Minerals Council), with the focus, according to the Mine Health and Safety Council, being on the following:

1. Prevention of persons from being exposed to flames, fumes or smoke arising from a conveyor belt installation
2. Testing of safety devices relating to conveyor belt installations
3. Use of fire-retardant belt materials
4. Including any other feasible legislative changes.
5. Aligning with any other applicable and relevant legislation (Local and International)<sup>xii</sup>

The proposed draft Regulations were distributed and the closing date for the customary 30 day comment period was 18 November 2022. The following were the key proposed new additions and amendments:

New/amended regulation	Topic
8.9	<p>Definitions</p> <p>Addition of words “...used or intended to be used...” to the definition of conveyor belt installation</p> <p>New definitions are added for:</p> <p><i>high risk installations</i></p> <p>means all conveyor belt installations in an underground mine, irrespective if ventilated directly to return airway, or on surface located at a main downcast shaft or decline section leading to an underground section of a mine or any other installation by nature of its construction or location represents a high risk to the safety of persons.</p> <p><i>installations intended not to be used</i></p> <p>means all high-risk conveyor belt installations not in use for an extended period.</p>
8.9(1)	<p>Prevention of injury due to rotating or moving parts and components</p> <p>New Sub-regulation 8.9(1)(f) added:</p> <p>The energy source feeding the drive motor of a conveyor belt installation that is not in use as per the mine risk assessment must be disconnected.</p>

Table 5. Proposed amendments to the Conveyor Belt Regulations

As is evident from Table 5, the Regulations are very much a work in progress, as some of the key considerations, especially those related to the exposure of persons to flames, fumes and smoke due to conveyor belt installation fires have not yet been formally addressed in the draft circulated for initial comment.

This was confirmed at the MRAC meeting held on 18 July 2022, where it was noted that not all tasks assigned to the task team had been completed. These tasks included:

1. Formally investigating the differences between fire retardant belts and fire resistant belts in order to make an informed recommendation regarding adoption,
2. Consultation with occupational hygienists regarding approaches to address toxicity in the testing of belts,
3. Launch an investigation into the capacity of the South African Bureau of Standards to test belts,
4. Investigate industry concerns regarding imported belting carrying SABS certification.<sup>xiii</sup>

The amendments to the Conveyor Regulations are a work in progress and no clear definite assumption can be made as to its final date of adoption (or in fact, its content.)

#### **4. AMENDMENTS TO MANDATORY CODES OF PRACTICE FOR THE SAFE USE OF CONVEYOR BELT INSTALLATIONS FOR THE TRANSPORTATION OF MINERAL, MATERIAL OR PERSONNEL**

Section 9(2) of the Mine Health and Safety Act requires that every employer draft a Mandatory Code of Practice where a guideline for such a code of practice is issued by the Chief Inspector of the DMRE.

This, from the perspective of the DMRE as a Regulator, is a very helpful tool, as the Mandatory Code of Practice creates enforceable standards without having to follow the rigid and prescriptive processes required for, for example, the amendment of Regulations. It's suitability as an agile tool was illustrated in the speed with which a Mandatory Code of Practice to combat the spread COVID-19 in the mining industry was adopted.

A guideline for the use of conveyors was published in December 2014<sup>xiv</sup> and has not been amended.

Under Clause 8.4, the guideline addresses the topic of Fire Prevention, by stating:

*In order to prevent persons from being exposed to fires, fumes and smoke arising from a conveyor belt installation catching fire, the COP must set out measures to prevent, detect and combat such fires. Such measures should include measures to prevent persons from being exposed to chemical released when a conveyor belt installation is ignited. The COP should also set out:*

- *A description of the design and selection criteria for the conveyor belt installation (SANS 971-2003, Edition 3 – “Fire retardant textile reinforced conveyor belting (for use in fiery mines) may be referenced for guidance): and*
- *Criteria for determining the location and length of a belt.*

This remains in place unchanged. In addition to the Conveyor Mandatory Code of Practice, a Mandatory Code of Practice on the Prevention of Fires at Mines has application to conveyor belt installations. This was published in 2016<sup>xv</sup>. It mentions the consideration of flame retardant materials as a general control for consideration in a risk based approach, but is not prescriptive. This too remains unchanged.

## **5. ORDERS, INSTRUCTIONS AND NOTICES**

### **5.1. SECTION 54 INSTRUCTIONS**

Department of Mineral Resources and Energy Inspectors are given far reaching powers under the Mine Health and Safety Act, including under Section 54 of the Act. The Section reads:

*54 (1) If an inspector has reason to believe that any occurrence, practice or condition at a mine endangers or may endanger the health or safety of any person at the mine, the inspector may give any instruction necessary to protect the health or safety of persons at the mine, including but not limited to an instruction that –*

*(a) operations at the mine or a part of the mine be halted;*

*(b) the performance of any act or practice at the mine or a part of the mine be suspended or halted, and may place conditions on the performance of that act or practice;*

*(c) the employer must take the steps set out in the instruction, within the specified period, to rectify the occurrence, practice or condition; or*

*(d) all affected persons, other than those who are required to assist in taking steps referred to in paragraph (c), be moved to safety.*

Some of the criticisms levelled against how this Section is implemented include the fact that it is based on one Inspector’s subjective opinion and the lack of uniform application across different provinces. Our courts have ventilated the opinion that the right to instruct may be used egregiously by the DMRE<sup>xvi</sup>

It is a fact that numerous Section 54 Instructions are issued across South Africa on a daily basis and that matters relating to conveyor belt installations are often included in these instructions. Due to the sheer scope these cannot be dealt with in the context of this paper.

## 5.2 PRINCIPAL INSPECTOR'S INSTRUCTIONS

Each designated DMRE region in South Africa falls under the jurisdiction of a Principal Inspector of Mines appointed by the Chief Inspector. Principal Inspectors, under the Act have various duties and rights with an administrative impact, for example the right to impose administrative fines.

Along with these specific administrative powers, a Principal Inspector retains the right of an inspector to give instructions.

An example of this, with a bearing on conveyor belt installations, is an instruction issued by the Principal Inspector of Mines, Northern Cape region in November 2022<sup>xvii</sup>

The instruction is qualified by referring to two employees having sustained traumatic amputations as a result of working inside designated sections while conveyor belt installations were in motion. The resultant instruction, quoted verbatim, is to implement the following:

*Installing limit switch that is electrically interlocked with safety system such that if a master guard segment is removed, conveyor stops immediately. All guard segments of a designated section must be mechanically interlocked in such a way that only a master guard segment must be removed first before others are removed OR all guard segments except the master guard segment are effectively welded closed.*

While the above appears to be a genuine attempt to prevent future harm, the concern is that a legal obligation is created without following the consultative processes required for the drafting of Regulations etc.

## 5.3. CHIEF INSPECTOR'S INSTRUCTIONS

As with the Principal Inspector above, Instructions are from time to time issued by the Chief Inspector. 11 February 2022 saw an Instruction under CIOM-INSTR. OH-01-2022. Of interest is that while the instruction emanated from the office of the Chief Inspector, it was communicated by each Principal Inspector per region.

The Instruction states that since 2004 the mining industry had reported 504 mine fires leading to 94 fatalities. It continued to give specific instructions, covering fire risk assessment, explosion prevention, fire detection systems, fire-fighting systems, refuge bays and, importantly, conveyor belt installations. The specific requirements regarding conveyor belt installations included: (quoted verbatim)

- 1. All conveyor belt installations in confined mining spaces including underground workings, at both fiery and non-fiery mines must be made of fire retardant textile and reinforced design, as per SANS 971-2013, as amended. The employer must develop and implement a plan to phase out existing non-fire retardant textile conveyor belts, and such plan must be submitted to the Principal Inspector of Mines within 60 days after this instruction has been issued. **NB: All non-fire retardant textile conveyor belts should be phased***

***out no later than the period of 12 months after the issuing of this instruction. Existing Conveyor Belts in underground workings that are already installed in an intake airway should be prioritised in terms of phasing out of the non-fire-retardant textile conveyor belts.***

2. *The employer must keep a record of procurement, toxicity test, flame resistance and propagation test, storage, installation, maintenance and discarding for all conveyor belts.*
3. *The employer must test all conveyor belts in confined spaces including underground workings for toxicity, flame resistance and propagation to verify that the belts are safe and fire retardant. These tests must be conducted in line with relevant safe standards on methods of assessment of fire propagation along a conveyor belt when it is exposed to a heat source on a larger scale.*
4. *A conveyor belt installation must be at a separate ventilation district and be ventilated directly to the Return Airway (RAW)*
5. *Based on the risk assessment outcomes, a monitoring system must be put in place to monitor the conveyor belt whilst in operation,*
6. *Install controls which will prevent the onset of a fire, because of the belt misalignment or belt slip, such as belt tear and bearing temperature monitoring devices.*

The Instruction is problematic for a variety of reasons. These include:

1. Ambiguous wording and construction. While some of the requirements clearly reference underground operations, others are ambiguous, as the context indicates underground and confined spaces application, but does not clearly define the area of application.
2. Duties of manufacturers. Section 21 of the Act places a clear duty on designers, manufacturers and suppliers to only provide, supply and install equipment, articles and substances that comply with the legislation. Placing a duty for testing etc. on the Employer is not aligned with the legal duty as contained in Section 21.

## **6. CONCLUSION**

The paper illustrates that various changes to the legislative framework for the safe operation of conveyor belt installations in South Africa have taken place, or are in process, since 2019.

Some of the proposed amendments will affect the mining industry at large, while other (proposed) amendments will have a direct impact on the operation of conveyor belt installations.

The author is of the opinion that the biggest potential impact in terms of change comes from internal DMRE instructions and not the formal processes for legislative amendment prescribed in the Mine Health and Safety Act, to wit through the Mining Regulation Advisory Committee and other statutory bodies.

The conclusion is that Employers and the conveyor belt industry at large will be required to exercise vigilance lest standards be created which are onerous, not based on risk and ultimately not feasible.

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<sup>iii</sup> Mine Health and Safety Amendment Act, 74 of 2008 (GG32140 of 17/04/2009)

<sup>iv</sup> Draft Mine Health and Safety Amendment Bill, 2022 (GG46546 of 15/06/2022)

<sup>v</sup> *Creda Communications(2008) Mine Health and Safety Bill, 2008*. (ISBN 978-1-77037-432-4

<sup>vi</sup> Competition Act, 89 of 1998 (GG19412 of 30/10/1998)

<sup>vii</sup> Senona L (2014) The dichotomy between the penalty regime in competition law and the firm's ability to pay: South Africa's experience <http://www.compcom.co.za/wp-content/uploads/2014/09/Londiwe-Senona-Article-Administrative-penalties-2.pdf>

<sup>viii</sup> GG 17725 of 15/01/1997

<sup>ix</sup> GG 2741 of 26/06/1970

<sup>x</sup> R.93 of 01/02/2008

<sup>xi</sup> R.622 of 2013

<sup>xii</sup> Ncube, B Correspondence, 27 October 2022, Invitation for comments – Conveyor Belt Regulations (Chapter 8)

<sup>xiii</sup> Minerals Council, OH&SP Circular No. 19/23

<sup>xiv</sup> GG38339 of 19/12/2014

<sup>xv</sup> GG40313 of 30/09/2016

<sup>xvi</sup> Bert's Bricks and Another v the Inspector of Mines, Northwest Region, North Gauteng High Court (Unreported, 09/02/2012)

<sup>xvii</sup> Mateta, T Principal Inspector's Instruction-Work conducted while conveyor belt is in motion and TMM's running out of control, 4/11/2022