

**USING A SLEDGEHAMMER TO CRACK A
NUT: THE SCOPE AND POWERS OF THE
MINE HEALTH AND SAFETY INSPECTORATE
IN LIGHT OF**

***Anglogold Ashanti Ltd v Mbonambi*
(2017) 38 ILJ 614 (LC)**

1 Introduction

The Mine Health and Safety Act (29 of 1996) as amended (MHSA) is one of the instruments in our social security system aimed at prevention of occupational injuries, diseases and fatalities at mines and the maintenance of health and safety standards (Smit “Employment Injuries and Diseases and Disability in the Workplace” in Olivier, Smit, Kalula and Mhone (eds) *Introduction to Social Security* (2004) 323 and 325). The Act entrusts the mine health and safety inspectorate (MHSI) with the power to ensure that operations do not pose a danger to the health and safety of employees working in mines (s 54(1) of the MHSA).

In addition, the MHSA provides that if an inspector believes 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, among other things, issue instructions that operations at the particular mine be halted completely or in part (s 54(a) of the MHSA). These instructions are commonly referred to as mine stoppage orders. The instruction becomes operational at the time set by the inspector until it has been complied with or it is set aside or varied by the Chief Inspector who has to confirm this as soon as practicable. The instruction may be issued to ensure that employers or employees comply with their duties to maintain health and safety in the mine (s 55 of the MHSA). In other words, this section empowers the inspector to order the employer to comply with certain provisions of the Act. According to the Act, such an instruction must be in writing and must specify the period or time frames within which the specified steps should be taken (s 54(3) of the MHSA).

In terms of section 86A of the amended MHSA, an employer, chief executive officer, manager, agent or employee commits an offence if he or she contravenes or fails to comply with the provisions of this Act, thereby causing (a) a person's death, or (b) serious injury or illness to a person. The maximum fine in terms of the MHSA is R2 million or five years' imprisonment. An employer must pay any fine imposed within 30 days of the imposition of the fine. If the employer fails to pay the fine within the specified period, the Chief Inspector of Mines may apply to the Labour Court for the fine to be made an order of that court (s 55B of the MHSA). Cawood

acknowledges that serious cases may be referred to the Attorney-General (now the Director of Public Prosecutions (NDPP)) for criminal or civil proceedings (Cawood “Mine Surveying and the Law: A Changing Landscape” 2008 *PositionIT* 25).

The decision of the Labour Court in *AngloGold Ashanti Ltd v Mbonambi* ((2017) 38 ILJ 614 (LC), hereinafter “*AngloGold Ashanti*”) provides much-needed clarity on the scope and powers of the mine inspectorate in terms of section 54 of the MHSA. The decisions of the MHSI are administrative actions as envisaged in section 33 of the Constitution read together with section 1 of the Promotion of Administrative Justice Act 3 of 2000 (PAJA). It is important to note that apart from the MHSA framework in which the MHSI operates, it must also adhere to the requirements of just administrative action as set by PAJA.

This case note examines the scope of the MHSI’s powers to issue section 54(1) instructions and the circumstances under which these instructions should be issued. Furthermore, the note examines the relevant jurisprudence of the South African courts dealing with the review of the MHSI’s exercise of power both in imposing administrative fines and issuing mine stoppage orders. This is done in light of the decision in *AngloGold Ashanti*. The note shows the importance of section 54 instructions and the role they have played in the reduction of serious injuries and fatalities at the mines over the past two decades. Nevertheless, the MHSI’s exercise of power in terms of the provision is not immune from critique. The facts of the case are outlined below. This is followed by a few comments and then a conclusion is drawn. The terms “employer” and “mining company” are used interchangeably in this contribution.

2 Facts and decision of the court

On 17 October 2016, a senior inspector of mines for the North West region inspected level 44 of section 12 of the applicant company’s *Kopanong* Mine in the North West Province. Level 44 constituted a very small portion of the overall mining operations at the mine. The inspector issued six instructions as envisaged in section 54(1) of the MHSA, of which the most far-reaching and relevant for this contribution was the instruction prohibiting the use of explosives and underground tramming operations throughout the mine. The effect of these prohibitions was that the entire mine was closed at a loss to the company of some R9.5 million per day. On 18 October 2016, the company made representations to the principal inspector of mines to set aside or vary the instructions. This was refused and three additional instructions were issued. A further appeal was made to the acting Chief Inspector of mines at the Department of Mineral Resources. On 21 October 2016, the acting Chief Inspector dismissed the company’s appeal and confirmed the instructions issued by the Senior Inspector and the Principal Inspector to halt the entire mining operation.

The applicant company launched an urgent application to the Labour Court for a *rule nisi* suspending the instructions (excluding their application to level 44) and interdicting and restraining the inspectors from enforcing the instructions pending an appeal to the court in terms of section 58(1) of the

MHSA. On 24 October, a *rule nisi*, drafted and approved by the parties, was issued by the court. On the return day (28 October 2016), the court first considered and dismissed several points *in limine* raised by the respondent inspectors of mines. Turning to the merits, the court noted that it was not disputed that level 44 comprised a minute part of the overall mining operations at *Kopanong* mine, that conditions at level 44 did not represent conditions elsewhere on the mine and that no circumstances existed on level 44 from which it could be reasonably inferred that the whole mine was unsafe.

The court noted further that section 54(1) of the MHSA required an inspector to establish objectively that a state of affairs existed that would lead a reasonable person to believe that conditions may endanger the health or safety of any person at the mine, and that it contemplated an instruction that was limited by the extent to which it was necessary to protect the health and safety of persons at the mine. The company's primary submission was that the inspectors failed correctly to identify dangerous conditions at the mine and respond to them proportionally. Proportionality is an element of the right to reasonable administrative action established by section 33(1) of the Constitution and PAJA.

The court agreed with the unreported judgment in *Bert's Bricks (Pty) Ltd v Inspector of Mines, North West Region* ([2012] ZAGPPHC (9 February 2012)), where the principle of proportionality was applied in the context of a challenge to an instruction issued under section 54(1) of the MHSA. There the court held that section 54(1)(a) and (b) meant that, objectively, a state of affairs had to exist that would lead a reasonable man to believe that conditions might endanger the health or safety of any person at the mine; and the inspector could only give an instruction that was necessary to protect the health and safety of that person. In this matter, it was clear from the undisputed evidence that no circumstances existed on level 44 that rendered the whole mining operation unsafe or on which the Senior Inspector could have relied to infer that not only level 44, but the whole mine, was unsafe.

The court was accordingly satisfied that the instructions, as far as they related to a prohibition across the entire mine in respect of explosives and tramming, were out of all proportion to the issues identified by the Senior Inspector. At worst, they should have been confined to level 44. The court likened the instructions to halt the entire mining operation to using a sledgehammer to crack a nut. According to the court, these were, therefore, reasonable grounds for the court to suspend the operation of the instructions issued by the Senior Inspector and Principal Inspector pending an appeal against the decision of the acting Chief Inspector. The court confirmed the *rule nisi* with costs.

3 Analysis of *AngloGold Ashanti Ltd v Mbonambi*

3.1 *The mine health and safety dispensation in South Africa: A short excursion on the past 21 years*

Before we provide an analysis of the decision of the court in *AngloGold*, it is important to provide a brief background of South Africa's position with regard to the system of occupational health and safety at the mines. Our postulation here is that since the introduction of the MSHA and consequently the MHSI, there have been tremendous improvements in the state of health and safety in the mines (Department of Mineral Resources Annual Report for the Financial Year 2012/13 <https://cer.org.za/wp-content/uploads/2015/07/Department-of-Mineral-Resources-Annual-Report-2012-2013.pdf> 15 (accessed 2017-08-20)).

In fact, significant strides in improving the working conditions of workers at the mines were made based on the intervention of the National Union of Mine Workers (NUM) before the enactment of the MSHA. In the late 1980s, the NUM petitioned the Nationalist Government to establish a commission of enquiry that would investigate all aspects of health and safety at the mines and seek to improve the situation through recommendations (Leon Commission of Inquiry into Safety and Health in the Mining Industry, 1995). The government acceded to these pleas in the early 1990s and the Leon Commission of Inquiry into the Safety and Health in the Mining Industry (the Commission) was established. Among other things, the Commission was tasked with investigating all aspects of legal regulation of mine health and safety and to make recommendations on how to improve on regulations that existed at the time in line with international standards (Leon Commission Vol. 1 1995 1). The Commission made excruciating findings on the number of people who were sustaining serious and fatal injuries at the mines.

According to the Commission, the first 93 years of mining in South Africa was marred by an underdeveloped health and safety regime that lagged far behind its European, North American and Australian counterparts (Lewis and Jeebhay "The Mines Health and Safety Bill 1996 – A New Era for Health and Safety in the Mining Industry" 1996 17 *ILJ* 430; Leon Commission 15). Over 69 000 mineworkers died as a result of injuries at mines during this period (Leon Commission Vol.1 1995 15). Among other things, the Commission found that underground mine workers faced at least a one-in-30 chance of being killed or seriously injured in gold mines (Leon Commission Vol.1 1995 14–15). Issues of health and safety at the mines were regulated in terms of the Mines and Works Act of 1911 at the time. A glance at the statistics of serious injuries and fatalities that occurred at the mines during this period demonstrates the shortcomings in this piece of legislation (Leger "Trends and Causes of Fatalities in South African Mines" 1991 14 *Safety Science* 169–184). Of course, there were other socio-political factors at play during this period but these will not be discussed further in this note.

The safety track record in the South African mining industry continues to be a matter of great concern. Available data shows that South Africa had the sixth highest fatality rate at mining operations compared with other mining countries in the early 1990s (Lewis and Jeebhay 1996 17 *ILJ* 433). In 1991

alone, 726 fatalities were reported in South Africa (Lewis and Jeebhay 1996 17 *ILJ* 433). Although the Leon Commission made a number of recommendations, this contribution will confine itself to discussing only one. This recommendation concerns the restructuring and overhauling of the mine health and safety inspectorate (Leon Commission Vol.1 1995 142–152). The recommendation was incorporated into the Mine Health and Safety Bill and into the Act later in 1996.

According to the Department of Mineral Resources, during 2011 a total of 123 mine workers were reported as having suffered fatal injuries, as compared to 127 in 2010. This is about a 3 per cent improvement (decline) in the number of fatalities (Department of Mineral Resources “Mineral Resources, Annual Report 2011–2012” http://www.sacea.org.za/%5Cdocs%5CDMR_2012.pdf (accessed 2017-08-20)). However, when comparing fatality frequency rates per million hours worked between 2010 and 2011, there has been an 8 per cent improvement from 0.12 to 0.11. The major gold and platinum mines are the main arenas for accidents and loss of lives.

The MHSA ushered in a new dispensation for the health and safety regime in South Africa (Cawood “Mine Surveying and the Law: A Changing Landscape” 2008 *PositionIT* 24–25 <http://www.ee.co.za/wp-content/uploads/legacy/Mine%20surveying%20and%20the%20law%20.pdf> (accessed 2017-08-20)). Since its enactment, there has been a steady decrease in the number of injuries and fatalities at mines. Five to 10 years into the new dispensation, fatality rates have dropped by over 50 per cent. In 2001, the ILO estimated that fatalities were down to 288 for that year and down further to 191 in 2006 (Hermanus “Occupational Health and Safety in Mining – Status, New Developments, and Concerns” 2007 107(8) *Journal of the Southern African Institute of Mining and Metallurgy* 532).

The Chamber of Mines report of 2015 showed that there had been a decrease of some 87 per cent in fatalities resulting from mine accidents in the country (Chamber of Mines (CoM) 2015 Annual Report 36; see also in general the positive decline shared by the Department of Mineral Resources <http://www.dmr.gov.za/mine-health-a-safety.html> (accessed 2017-07-31)). The report indicates that there were 77 fatalities at the mines in 2015, a 5.8 per cent decrease from 84 in 2014 (CoM 2015 Annual Report 36; see also Mosebenzi “SA Mines Killed 73 People in 2016” *The Citizen* (19 January 2017) <http://citizen.co.za/news/south-africa/1402141/sa-mines-killed-73-people-2016-minister-mosebenzi-zwane/> (accessed 2017-08-20)). Although the number is still obviously high, by any standards, it shows a huge improvement compared to the situation before the MHSA and the newly constituted inspectorate. The Act ushered high expectations that it would alter the culture and politics of health and safety in the mines, and it has lived up to this expectation (Lewis and Jeebhay 1996 17 *ILJ* 431). The next part focuses on the powers and functions of the mine health and safety inspectorate.

3.2 *Legal framework and powers of the mine health and safety inspectorate (MHSI)*

The mine health and safety inspectorate is established in terms of section 7(1) of the MHSA. The inspectorate is a unit in the Department of Mineral Resources and is headed by the Chief Inspector of mines. The functions of the inspectorate are executed by inspectors and principal inspectors of mines. These officials are appointed by the Chief Inspector and report to him or her (s 49(1)(a) of the MHSA). For the sake of brevity, this note refers to them collectively as inspectors. Chief among the functions of the inspectorate is to safeguard the health and safety of persons at mines and communities affected by mining operations and also to ensure compliance with health and safety standards by the mining companies.

To perform their duties, the inspectors are empowered to enter any mine and conduct inspections without any notice to the employer (s 50 of the MHSA). Section 54 of the Act provides for an enforcement mechanism in terms of which the inspectors can ensure compliance. This section empowers the inspectors to issue instructions to halt mining operations completely, or in part, if they have reason to believe that a situation exists that endangers or may endanger the health or safety of any person at the mine (s 54(1)(a) of the MHSA). Such an instruction may also suspend the performance of certain functions at the mine, and may place conditions on the carrying out of a function (s 54(1)(b) of the MHSA).

The MHSI is also empowered in terms of section 55A and 55B to recommend and impose administrative fines on employers who have failed to comply with certain provisions of the Act. The inspector of mines, if he or she has reason to believe that an employer has contravened or failed to comply with any provision contemplated in section 91(1B) of the MHSA, may make recommendations to the Principal Inspector that a fine be imposed on the employer (s 55A of the MHSA). The Principal Inspector is empowered to impose an administrative fine on an employer after considering the recommendation and representations from or on behalf of the employer (s 55B(1)(b) of the MHSA).

The exercise of power by the inspectorate in terms of these provisions has caused a lot of discontent on the part of employers. Both the mine stoppage orders and the administrative fines have been the subject of courts' consideration lately. Some of these cases are discussed in the next part of this note, which deals with administrative actions. Employers are aggrieved by the manner in which the inspectorate discharges its functions insofar as both enforcement and punitive mechanisms are concerned (ss 54, 55A and 55B of the MHSA). Although the court in *AngloGold* was concerned with section 54 only, the decision has application in both mechanisms. This will be evident in the discussion below, which shows how the courts have infused administrative law principles into the MHSA context.

3.3 *The inspectorate's exercise of power through the administrative action lens*

The court in *AngloGold Ashanti* noted in passing that although the instructions issued in terms of section 54 are subject to an internal appeal in terms of section 58, they constitute administrative action and are therefore also reviewable under section 6 of PAJA (par 27). This means that, over and above an appeal to the Chief Inspector of Mines, an employer against whom such instructions have been issued can approach the court for a review in terms of section 6 of the PAJA. However, since the administrative fine issued in terms of section 55B is expressly excluded from an internal appeal process to the Chief Inspector of Mines (s 57(1) of the MHSA), an employer seeking to challenge such a sanction must approach the court for a review in terms of section 6 of PAJA.

Section 1 of PAJA defines an administrative action as a decision taken by an organ of state, exercising a public power or performing a public function in terms of any legislation, that adversely affects rights, and that has a direct external effect and does not fall under any of the listed exclusions. (See also *Glencore Operations South Africa v Minister of Mineral Resources* (2016) 37 ILJ 966 (LC) par 44.) One of the fundamental principles of just administrative action is proportionality (*AngloGold Ashanti supra* par 29). The definition of proportionality was given by Lord Diplock in the classical case of *R v Goldsmith* ((1983) 1 WLR 151 155), where he stated, "you must not use a steam hammer to crack a nut if a nut cracker would do". According to the courts, a decision is proportionate if: (i) the legislative (or executive) objective is sufficiently important to justify limiting a fundamental right; (ii) the measures designed to meet the legislative (or executive) objective are rationally connected to it; (iii) the means used to impair the right or freedoms are no more than necessary to accomplish the objective (*R v Secretary of State for the Home Department, Ex Parte Daly* (2001) 3 ALL ER 433 (HL); *De Freitas v Permanent Secretary of Ministry of Agriculture, Fisheries, Land and Housing* (1999) 1 A.C. 69).

The principle of proportionality envisions that a public authority must maintain a sense of proportion between its particular goal and the means it employs to achieve those goals, so that its action impinges on the individual rights to the minimum extent to preserve the public interest (Barrie "The Application of the Doctrine of Proportionality in South African Courts" 2013 28(1) *Southern African Public Law* 41–42). This means that administrative action ought to bear a reasonable relationship to the general purpose for which the power has been conferred (see Alon-Shenker and Davidov "Applying the Principle of Proportionality in Employment and Labour Law Contexts" 2013 59(2) *McGill Law Journal* 377–379). In short, the principle of proportionality encompasses balance, necessity and suitability. Evaluated through this lens, an inspector who acts in terms of section 54 must therefore objectively establish that a situation exists that may endanger the health or safety of any person at the mine and then only issue an instruction that is proportional to that situation.

The inspector is thus not entitled to extend an instruction to other sections or functions of the mine where there are no objective facts suggesting that

danger exists (*AngloGold Ashanti supra* par 30–31). This principle was aptly expounded in *Bert's Bricks (supra)* and was concurred with in *AngloGold Ashanti (supra* par 30–31). The instructions of the inspector were therefore reviewable in terms of section 6(2)(f)(ii) of PAJA in that the decision to halt the entire mining operation was not rationally connected to the purpose for which it was taken and the information before the inspector. The cases discussed below demonstrate instances where the courts have used section 6 of PAJA to review the MHSI's exercise of power.

In *International Ferro Metal v Minister of Mineral Resources* (LC (unreported) 2015-01-21 J1673/13), the Chief Inspector of Mines had issued guidelines in terms of section 49(6) of the MHSA. These guidelines were to be used by inspectors as a reference guide when considering whether or not to issue instructions in terms of section 54 (par 21–24). The guidelines required the inspectors to consider, among other things, historical data of an employer's non-compliance and the occurrence of injuries and fatalities at the mine when deciding whether or not to issue section 54 instructions (par 30).

The guidelines empowered inspectors to issue instructions based on what had happened in the past at the particular mine and not to confine themselves to the current situation when an inspection is conducted. This was clearly incorrect and against the proportionality principle. The court decided to set aside these guidelines as they had not been gazetted as required by section 49(6) (par 34). The court noted (par 31 and 33) that these guidelines were prescriptive as to the circumstances under which instructions were to be issued in terms of section 54 and this had the effect of taking away the right of the employer to be heard and the impartiality of the inspector when making his or her decision.

In *Impala Platinum Limited v Mothiba N.O.* ((2017) 38 ILJ 636 (LC)), the court set aside an administrative fine of R1 million imposed by the Principal Inspector of mines in terms of section 55B(1)(b) of the MHSA (par 13 and 15). An employee had sustained a fatal injury from a gas explosion in an abandoned section of the mine (par 2). After a recommendation to impose the fine by an inspector, the employer made representations as envisaged in the provision (s 55A(4) of the MHSA).

Naturally, the mine confined its representations to what was presented in the recommendation and nothing more (par 10). The Principal Inspector then imposed the fine after receiving both the recommendation and the representations. It transpired that the Principal Inspector based his decision on documents in addition to what was contained in the recommendation. These documents included a register supplied by the company to the MHSI indicating flammable gas readings in shafts 11 and 11C for the period of 2009 to 2013 and records of the enquiry, which included statements made by mine representatives (par 8–9).

The employer was not notified that these documents and information were to be used in determining whether to impose the administrative fine (par 8–9). The court noted that an employer cannot be required to speculate on the case it has to answer (par 11). Sufficient details of the case should be placed before an employer before it makes representations because the whole section 55B process is accusatory in nature (par 12). The court

concluded that the fine imposed was contrary to the tenets of just administrative action as contemplated in section 3(2)(b)(ii) of PAJA in that the employer was not afforded a reasonable opportunity to make representations that covered the entire case against it (par 13).

In *Glencore Operations South Africa v Minister of Mineral Resources* ((2016) 37 ILJ 966 (LC)), the court used the provisions of section 6(2)(a)(iii) of PAJA to review and set aside an inspector's section 55A recommendation and the section 55B administrative fine issued by a Principal Inspector. An employee of Glencore (a mining company) was fatally injured in an underground mine accident (par 7). Following this incident, a section 65 inquiry was convened and chaired by someone who was also a Principal Inspector of Mines (par 8). At the conclusion of the inquiry, the chairperson issued his findings and remedial action in a report envisaged in section 72 (par 9). This report was served on the Chief Inspector of Mines, among others, but not on the mining company. Acting in terms of section 55A, an Inspector of Mines issued a recommendation that an administrative fine be imposed on the company for contravening certain provisions of the Act.

The company then made representations at the invitation of the Principal Inspector (par 21 and 22). In its submissions, the company provided an answer to each alleged contravention (par 23). Nonetheless, the Principal Inspector decided to impose an administrative fine of R500 000 in terms of section 55B. The official did not provide any reasons for this decision save that he was acting in accordance with the recommendation made by the inspector (par 27–28). The company paid the fine and then approached the court for a review of both the recommendation and the fine.

The court took the approach of the Constitutional Court in *Minister of Health v New Clicks* (2006 (2) SA 311 (CC)) and treated the recommendation of the inspector and the decision to impose a fine as one continuous administrative action (par 55–67). The court held that the Principal Inspector was already compromised since the recommendation by his subordinate was based on a section 72 report compiled by him and he was the chairperson at the section 65 inquiry (par 108). His decision on whether to impose a fine was inevitably biased. The inspector could also not act independently and impartially in assessing the evidence before him. He was unlikely to come to a conclusion different to that of the Principal Inspector, his superior, in the section 72 report. The recommendation was therefore also tainted with bias (par 108). The *audi alteram partem* rule, which requires the other side to be heard before a decision is made, was clearly not observed and the action was pre-judged (par 88; 94–95; 116 and 144).

Mining companies are of the view that the inspectorate unnecessarily suspends or halts operations even where there is no objective reason to believe that any person's health or safety is endangered or may be endangered (Naidoo "Section 54 vs 55: Enforcing Efficiency for SA's Safety Laws" *Business Media Mags* (May 2014) <http://businessmediamags.co.za/section-54-vs-55-enforcing-efficiency-for-sas-safety-laws/> (accessed 2017-08-01); see Hill "Northam Reopens Mine, Estimates Losses at 6 500 oz" *Engineering News* (24 October 2007) <http://www.engineeringnews.co.za/article/northam-reopens-mine-estimates->

losses-at-6-500-oz-2007-10-24 (accessed 2017-08-01). In other cases, mining companies correctly argue that the instruction to halt operations for the entire mine is disproportional to the perceived unsafe or unhealthy situation. These are the same reasons for challenging the instructions as applied in the *AngloGold Ashanti* case.

The losses suffered as a result of these wholesale stoppages are incompatible with the positive improvement over the years. It is reported that this has cost the mining industry R13.63 billion between 2012 and 2015 (McKay "Section 54s Cost SA Mines R4.8bn in 2015, and 2016 may be worse" <http://www.miningmx.com/opinion/columnists/27866-stoppages-lop-r4-8bn-off-2015-revenue-2016-worse/> (accessed 2017-08-01)). These huge losses exclude wages of mineworkers who have to be paid even when the mine is closed and the costs of restarting mining shafts (McKay <http://www.miningmx.com/opinion/columnists/27866-stoppages-lop-r4-8bn-off-2015-revenue-2016-worse/>).

In light of the above discussion, it becomes clear that the courts will not hesitate to intervene in cases where the MHSI acts *ultra vires* or outside the scope and powers entrusted to them by the MHSA. Nevertheless, this does not mean that the court will be lenient on non-compliance with the safety standards that the mining companies must adhere to.

4 Conclusion

The decision of the court in *AngloGold Ashanti Ltd v Mbonambi (supra)* is welcomed and commended because it gives clear guidelines on how the MHSI should discharge its functions. It highlights the improper and sometimes arbitrary manner in which the inspectorate exercises its power when issuing mine stoppage orders and administrative fines. We hope that the MHSI officials will heed the reproach of the court in *Bert's Bricks*, and which was subsequently reiterated by the court in the present case – that is, that they should appreciate and familiarise themselves with the conceptual framework within which they are required to operate (par 35–36). This note has observed the conspicuously important role that the MHSI has played in the reduction of occupational injuries, diseases and fatalities in the mining industry, and that it continues to play a crucial role in the South African mine health and safety regime. However, it also highlights the dichotomy between the decrease of occupational accidents over the years and the increase in mine stoppage orders and administrative fines imposed on employers. Finally, this case has shown that the decisions by the MHSI to issue mine stoppage orders and administrative fines in terms of sections 54 and 55 respectively are administrative actions as defined in section 1 of PAJA and are therefore reviewable in terms of section 6 of this Act. This is in addition to the internal appeal to the Chief Inspector in terms of section 58 of the Act.

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