

# The brain drain and messy regulation

 By [Danette Breitenbach](#)

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The regulatory environment governing the mining industry in South Africa has never been more complicated - or expensive - as the cost of compliance continues to skyrocket. The result is that the country is not competitive.



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Decisions are no longer based of policy and administrative rules, said Hulme Scholes, director: Malan Scholes Inc. “Today, decisions are made for political reasons. And the result is the mess we are sitting with today. It’s completely unworkable and unreasonable.

“From the first Mining Charter through the 2000s to 2007, the process was well managed and the regulator, the then department of minerals and energy (DME), today the department of minerals resources (DMR), was accessible and its team knew what it was doing.”

## Conflicting policies

The problem is exacerbated by various regulatory and policy documents not talking to each other, and are in conflict with the Minerals and Petroleum Resources Development Act (MPRDA).

The other challenge is weak leadership in government. “The DMR is incapable of making a decision,” he said.

Scholes was part of a panel at the recent Junior Mining Indaba held in Auckland Park discussing the development of a competitive regulatory regime for exploration and junior mining.

Also on the panel was Jacinto Rocha, once the director general of minerals and energy, he is now the director, Mineral Investment Advisory Services, who agrees there is a weakness in the regulator, but he’s not sure what can be done about it. He is not sure what to do about it. “What to do, to be honest, I don’t know. We are all confused. The South African system is complex and is becoming more complex, and it is inefficient.” He quoted an example of a client who has been waiting seven years for a license renewal.

## Knowledge gap

For him, the problem is a lack of intellectual and knowledge capacity, caused by a brain drain in the department. “When the post-apartheid founders left, the level beneath them followed, leaving a gap in the department. When you are changing things, you need to understand why certain things were done the way they were, if you are to further contribute. But if that knowledge is gone...”

We need to start over, said Scholes, while another panel member, Jonathan Veeran, partner: deputy head of the mining sector group, Webber Wentzel, said there are a basket of things that we should be doing. “The first is regulatory certainty. Secondly is an efficient and clear administrator, that is trained and complies with international treaties, and thirdly is the rebuilding of trust between the parties in the industry, which include tax incentives for junior mining and investments, creating a MPRDA light version for junior miners. This is a pivotal moment to rebuild this trust.”

## ABOUT DANETTE BREITENBACH

Danette Breitenbach is a marketing & media editor at Bizcommunity.com. Previously she freelanced in the marketing and media sector, including for Bizcommunity. She was editor and publisher of AdVantage, the publication that served the marketing, media and advertising industry in southern Africa. She has worked extensively in print media, mainly B2B. She has a Masters in Financial Journalism from Wits.

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