

CHAPTER 66:03
PRECIOUS AND SEMI-PRECIOUS STONES (PROTECTION)

ARRANGEMENT OF SECTIONS

PART I
Preliminary

SECTION

1. Short title
2. Interpretation

PART II
*Discovery of Precious Stones and Offences in Connection
Therewith*

3. Duty of holder of prospecting right to report discovery of precious stones
4. Penalty for making false declaration of discovery of precious stones
5. Placing of precious stones in place where not naturally found

PART III
Dealing in Precious Stones

6. Prohibition on unlawful dealings in and possession of rough or uncut precious stones
7. Prohibition against purchase from or sale to unauthorized persons
8. Issue of precious stone dealers' licences
9. False statement by applicant for licence or permit
10. to 11.
12. Licensed dealer to have place of business and dealings to be confined to such place
13. Removal or extension of licensed dealer's place of business
14. Where certain persons may sell or dispose of precious stones
15. Notes of sale and purchase
16. Persons dealing in rough or uncut precious stones to keep register of transactions
17.
18. Powers of police to search for rough or uncut precious stones
19. Powers of police concerning parcels and packages containing precious stones transmitted by post
20. Powers of Minister to cancel precious stone dealers' licence
21. Precious stones found or picked up by chance to be delivered to police in certain circumstances
22. Evidence in proceedings under this Part
23. Forfeiture of licence or permit in case of conviction
24. Disposal of precious stones in case of conviction and forfeiture of moneys, etc. in certain circumstances

PART IV
*Precious Stones Protection Areas and Precious Stones Security
Areas*

25. Precious stones protection areas
26. Precious stones security areas

PART V
Dealing in Semi-Precious Stones

- 27. Prohibition of unlicensed trading in semi-precious stones
- 28. Application for semi-precious stones dealer's licence
- 29. Semi-precious stones dealer's licence may be issued subject to conditions
- 30. Validity and renewal of semi-precious stones dealer's licence
- 31. Semi-precious stones dealer's licence fee
- 32. Sale to be by wholesale only
- 33. Semi-precious stones dealers to render returns
- 34. Royalty on sales of semi-precious stones
- 35. Cancellation of semi-precious stones dealer's licence
- 36. Offences under this Part

PART VI
Miscellaneous

- 37. Search of persons and things
- 38. Regulations

Act 3, 1969,
Act 45, 1970,
Act 36, 1973,
Act 42, 1977,
Act 36, 1978,
Act 14, 1981,
S.I. 105, 1982,
Act 4, 1991,
Act 16, 2005.

An Act to provide for the protection of the precious stones industry and regulation of dealings in precious stones and semi-precious stones.

[Date of Commencement: 14th February, 1969]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Precious and Semi-Precious Stones (Protection) Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"fragment" means a part of a precious stone separated from the main stone in the course of precious stone cutting and of so irregular a shape and small a size as to be unsuitable for

sawing, cutting or polishing;

"mining area" means the land subject to a mining lease;

"mining lease" means a right to mine acquired under Part VI of the Mines and Minerals Act;

"partly manufactured precious stone" means a precious stone which has been subject to one or more of the operations of precious stone cutting, but not to the extent sufficient for it to be regarded by the precious stones cutting industry as a polished precious stone;

"precious stone" means a diamond or any other substance declared by regulations to be a precious stone for the purposes of this Act;

"precious stones dealer" means the holder of a current precious stones dealer's licence issued under section 8;

"producer", in relation to precious stones, means a person who wins precious stones from land where he is lawfully entitled to prospect or mine for precious stones;

"prospecting area" means the land subject to a prospecting licence;

"prospecting licence" means a right to prospect acquired under Part V of the Mines and Minerals Act;

"rough or uncut precious stone" includes any crushed precious stone, precious stone dust, fragment or partly manufactured precious stone, precious stone powder and any rough or uncut synthetic precious stone;

"search" includes search by means of X-ray apparatus;

"semi-precious stone" means any substance declared by regulations to be a semi-precious stone for the purposes of this Act;

"semi-precious stones dealer" means the holder of a current semi-precious stones dealer's licence issued under section 28.

PART II

Discovery of Precious Stones and Offences in connection therewith (ss 3-5)

3. Duty of holder of prospecting right to report discovery of precious stones

(1) The holder of a prospecting licence who has discovered precious stones shall forthwith give written notice of his discovery to the Minister through the Director of Geological Survey and shall thereafter transmit to the Minister through the Director of Geological Survey, within seven days after the last day of every month, or at such shorter intervals as the Minister may in writing direct, a declaration in the prescribed form setting forth the weight and estimated value of the precious stones found, the extent of the ground worked and such other information as may be prescribed.

(2) The holder of a prospecting licence shall, on being required to do so by a police officer of

or above the rank of Inspector or by a person authorized by the Minister in writing to make such a requirement, produce for inspection by that police officer or person so authorized a copy of any declaration such as is referred to in subsection (1) together with the precious stones referred to therein or records of their disposal.

(3) Any such holder who fails to comply with any provision of this section, or, in any declaration under subsection (1) makes a statement which is false in any material particular knowing the same to be false, shall be guilty of an offence and liable to a fine not exceeding P100, or in default of payment to imprisonment for a term not exceeding six months.

(4) If the holder of a prospecting licence is convicted of such an offence the Minister may declare forfeited any rights which may have accrued to such holder under the Mines and Minerals Act, in respect of the discovery of precious stones on the land in question or any rights that may have been granted to him in consequence of any such false declaration.

4. Penalty for making false declaration of discovery of precious stones

Any person who makes any declaration of discovery of precious stones under this Part well knowing that the precious stones declared to have been found were by himself or by some other person placed or deposited in or on the place or in the soil or rock dug out or removed from the place in which the declarant was prospecting, or who makes a declaration of discovery of precious stones well knowing that they did not naturally exist in or on the place or in the soil or rock where they were declared to have been found or discovered, or who makes any such declaration well knowing that the said precious stones were not found or discovered at or near the place where they were declared to have been found or discovered, shall be guilty of an offence and liable to the penalties prescribed by law for the crime of perjury, and all rights acquired by him in consequence of any such declaration of discovery shall lapse.

5. Placing of precious stones in place where not naturally found

(1) Any person who wilfully places or deposits or is accessory to the wilful placing or depositing of any precious stones in any place, with intent to persuade or induce any person to make a declaration of discovery of precious stones or to create the impression that precious stones occur in payable quantities in any place where precious stones have been or may be declared to have been found, shall be guilty of an offence and liable to imprisonment for a term not exceeding seven years.

(2) Wherever in any charge in respect of an offence under subsection (1) the accused is proved to have placed or deposited or to have been accessory to the placing or depositing of precious stones in any place where the finding thereof would be likely to lead any person to make a declaration of the finding of the same or would tend to mislead any person, the accused shall, unless the contrary is proved, be deemed to have placed or deposited such stone in such place with the intent mentioned in that subsection.

PART III

Dealing in Precious Stones (ss 6-24)

6. Prohibition on unlawful dealings in and possession of rough or uncut precious

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stones

- (1) Except as is otherwise provided in this Act, no person shall-
- (a) buy, deal in or receive by way of barter, pledge or otherwise, either as principal or agent, any rough or uncut precious stones, unless the person has been duly authorized in terms of this Part to deal in rough or uncut precious stones as a buyer or seller; or
 - (b) sell, pledge or barter or otherwise deal in any article purporting it to be a precious stone.
 - (c) sell or offer or expose for sale, barter, pledge or otherwise, or for the purpose of trade dispose of or deliver, either as principal or agent, any rough or uncut precious stones, unless-
 - (i) he is a person exempted under paragraph (a);
 - (ii) he is the holder of a mining lease relating to precious stones;
 - (iii) such rough or uncut precious stone has been won or recovered by him from land on which he is lawfully prospecting for precious stones;
 - (iv) he is the duly accredited and registered agent of any person exempted under subparagraph (ii) or (iii); or
 - (v) he is otherwise authorized under this Part to sell or otherwise dispose of such rough or uncut precious stone;
 - (c) have in his possession any rough or uncut precious stone unless-
 - (i) he is a person exempted under paragraph (a) or (b);
 - (ii) he is authorized under this Act to be in possession of such precious stone;
 - (iii) he is in possession of such precious stone in fulfilment of a contract of service with any such exempted person; or
 - (iv) he has come into possession of such precious stone in a lawful manner.

(2) The provisions of paragraph (b) of subsection (1) shall not be construed as authorizing the sale, disposal or delivery of any rough or uncut precious stone by any person referred to in that paragraph unless he is the lawful owner of such precious stone or is lawfully in possession thereof.

(3) Any person who contravenes the provision of subsection (1) shall be guilty of an offence and shall, upon conviction, be sentenced to—

- (a) imprisonment for a term not less than five years but not exceeding 15 years; and
- (b) for any subsequent conviction, to imprisonment for a term not less than seven years

but not exceeding 15 years.

7. Prohibition against purchase from or sale to unauthorized persons

(1) No person exempted under section 6(1)(a) shall buy or receive by way of barter, pledge or otherwise any rough or uncut precious stone from any person not authorized under paragraph (b) of that subsection to dispose of such precious stone, and no person so authorized shall sell or offer or expose for sale, barter, pledge or otherwise dispose of or deliver any rough or uncut precious stone to any person not authorized under the said paragraph (a) or any other provision of this Part to buy or receive such precious stone.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to the penalties prescribed in section 6(3).

8. Issue of precious stone dealers' licences

(1) Subject to the provisions of this section, a precious stone dealer's licence in the form prescribed, entitling the holder during the currency of the licence to deal in rough or uncut precious stones as buyer, seller, importer or exporter, may be obtained from the Minister by any person of or over the age of 18 years.

(2) The Minister may refuse to issue a precious stone dealer's licence if he is satisfied-

- (a) that the applicant is not a fit and proper person to hold the licence applied for;
- (b) that the applicant's knowledge of precious stones is not sufficient to enable him to carry on the business of a precious stone dealer in a satisfactory manner;
- (c)
- (d) that for any other reason the issue to the applicant of the licence applied for is not warranted or is undesirable.

(3) Whenever any application under subsection (2) is refused by the Minister, the Minister shall, in writing, notify the applicant of the Minister's decision.

(4) Before any precious stone dealer's licence is issued to any person there shall be lodged with the Minister a recognizance in the form prescribed, entered into by such person and one or more sufficient sureties which recognizance shall be for an amount of P10,000 and shall be subject to such conditions as may be set forth in such form.

(5) Where the Minister is satisfied that an applicant satisfies the requirements of this Act for the issuing of a precious stones dealer's licence, the Minister shall, upon payment of a prescribed fee by the applicant, issue a precious stones dealer's licence to that applicant.

(6) A precious stones dealer's licence issued in terms of subsection (5), shall be valid for a period not exceeding five years, and shall be renewable for periods not exceeding five years at a time.

(7) The fee referred to in subsection (5) shall be payable annually, within the last three

months before the end of a period of 12 months from the date on which each previous payment was made.

9. False statement by applicant for licence or permit

(1) Any person who, in connection with any application for a licence or permit under this Part, makes or causes to be made a statement which is false in any material particular, knowing the same to be false, shall be guilty of an offence and liable to a fine not exceeding P1,000 or to imprisonment for a term not exceeding two years, or to both.

(2) Any such licence or permit issued to a person convicted under the provisions of subsection (1) shall be null and void.

10 and 11.

12. Licensed dealer to have place of business and dealings to be confined to such place

(1) Every precious stones dealer shall have an office or place of business the situation whereof shall be described in his licence or endorsed thereon in accordance with the provisions of section 13.

(2) A precious stones dealer shall affix in some conspicuous place on the outside of and over by the side of the outer door of his business premises, his full name or, where two or more such dealers carry on business in partnership, the name or style of the partnership, and after any such name or style, the words "Licensed Precious Stones Dealer" or "Licensed Precious Stones Dealers", as the circumstances may require, such name or style and the said words to be printed in capital letters at least five centimetres in height to be plainly visible and legible.

(3) Subject to the succeeding provisions of this section and the provisions of section 14 no precious stones dealer shall buy, offer to buy, sell, offer or expose for sale, deal in or receive by way of barter, pledge or otherwise or view or request any person to sell or in any way dispose of any rough or uncut precious stone elsewhere than in the premises the situation whereof is described in his precious stones dealer's licence or premises of which the situation has been endorsed on that licence in accordance with the provisions of section 13.

(4) When any transaction as is contemplated by subsection (3) is negotiated between two holders of precious stones dealer's licences, such transaction may be concluded in the premises of either the purchaser or the seller.

(5) Any precious stones dealer may assist any other precious stones dealer in any transaction mentioned in subsection (3), provided such transaction is negotiated in the premises of such other dealer.

(6) No precious stones dealer shall in any manner induce or attempt to induce any person in possession of rough or uncut precious stones to enter such dealer's premises for the purpose of viewing or entering into any transaction in respect of such precious stones.

(7) No precious stones dealer shall, except with the consent in writing of the Minister, allow

any person who is not the holder of a precious stones dealer's licence to assist such dealer in any transaction which he may conclude in terms of his licence.

(8) Any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence and liable for a first offence to a fine not exceeding P200 and for a second or subsequent offence to a fine not exceeding P500.

13. Removal or extension of licensed dealer's place of business

If the removal of any precious stones dealer's place of business to premises other than those in respect of which his licence was issued becomes necessary or desirable during the currency of the licence, or if such dealer desires to carry on business in any additional premises, the Minister may, upon application made to him by such dealer, and after he has satisfied himself as to the suitability of the premises, in writing endorse on the licence the situation of the new or additional premises.

14. Where certain persons may sell or dispose of precious stones

(1) No producer or accredited agent of a producer or holder of a licence under this Part authorizing the sale or disposal of rough or uncut precious stones, shall sell or offer or expose for sale or dispose of by way of barter, pledge or otherwise, any rough or uncut precious stone elsewhere than in the business premises of a person who is in terms of this Part entitled to buy rough or uncut precious stones:

Provided that the Minister may upon application made to him in writing authorize any producer or his accredited agent to offer or expose for sale at such other premises and subject to such conditions as are specified in the authorization, any rough or uncut precious stones in the lawful possession of such producer or agent.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to the penalties set forth in section 11.

15. Notes of sale and purchase

(1) Whenever any precious stones dealer or banker buys or sells any rough or uncut precious stone the parties to the transaction shall immediately upon the completion thereof complete, in duplicate, a note of sale and purchase in the form prescribed.

(2) Such notes of sale and purchase shall-

- (a) be provided by the purchaser, be kept by him in book form and be used in numerical and chronological order;
- (b) reflect the date of the transaction and the names of the parties thereto;
- (c) set forth the total weight of the precious stones in question and the total price paid therefor;
- (d) specify the weight and value in respect of every precious stone-

- (i) of which the weight is not under 10 carats; or
 - (ii) of which the value is not under P200; and
- (e) be certified as correct by the parties to the transaction.

(3) The original of every note of sale and purchase completed in terms of this section shall be retained by the seller and the duplicate original by the purchaser, for a period of at least two years after the date of the transaction.

(4) Any person to whom the provisions of this section apply shall produce and exhibit or deliver the originals or duplicate originals, as the case may be, of any such notes of sale and purchase and produce for inspection any rough or uncut precious stone still in his possession when requested to do so by any police officer of or above the rank of Inspector or by a person authorized in writing by the Minister.

(5) Any person who contravenes or fails to comply with the provisions of this section or who signs any note of sale and purchase under this section which is false in any material particular, knowing it to be false, shall be guilty of an offence and liable to the penalties set forth in section 9.

16. Persons dealing in rough or uncut precious stones to keep register of transactions

(1) Every precious stones dealer, and every producer or accredited agent of a producer shall keep or cause to be kept a true and correct register in English in the form prescribed in which shall be entered-

- (a) details of all rough or uncut precious stones won or recovered, manufactured, purchased, sold, received, exported or imported by him, and the date of each event, and, in the case of purchases, sales, exports or imports, the name of the seller, purchaser, consignee or consignor;
- (b) the weight and value of every rough or uncut precious stone-
 - (i) of which the weight is not under 10 carats; or
 - (ii) of which the value is not under P200,won or recovered, purchased, sold, received, exported or imported by him;
- (c) the total price received or paid for all the rough or uncut precious stones sold to or purchased from any particular person at any one time; and
- (d) such further particulars as shall be required according to such form:

Provided that the Minister may in his discretion exempt any person from compliance with paragraph (b) in respect of such classes of diamonds as may be specified in the exemption.

(2) Every such entry shall be in ink and shall be made 24 hours after the occurrence of the

event recorded.

- (3) Every person required by this section to keep such register shall-
- (a) within seven days after the end of every month of the year forward to the Minister through the Director of Mines a true copy of all entries in the register for the previous month together with a solemn declaration testifying to the correctness thereof;
 - (b) whenever such register is required to be exhibited in any court, produce and deliver such register on the written order of any police officer of or above the rank of Inspector;
 - (c) produce the register for inspection together with any rough or uncut precious stones in his possession when requested to do so by any such police officer of or above the rank of Inspector; and
 - (d) retain the register for a period of at least two years subsequent to the occurrence of any event therein recorded in terms of subsection (1).

(4) Any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence and liable to the penalties set forth in section 9.

17.

18. Powers of police to search for rough or uncut precious stones

Any police officer may-

- (a) at all times enter upon and examine and search any place or premises, and may at any time stop and search and examine any vehicle (or any part thereof) conveying or suspected to be conveying rough or uncut precious stones, and may-
 - (i) seal, mark or otherwise secure any package or container found in such place, premises or vehicle;
 - (ii) take an account of all rough or uncut precious stones found in such place, premises or vehicle, and, if he thinks fit, take such precious stones into custody;
- (b) force access to or open any place, premises, vehicle, package or container which is locked if the keys thereof are not produced upon his demand;
- (c) search or cause to be searched any person whom he has reason to believe has rough or uncut precious stones secreted about his person or in his possession:

Provided that a person shall only be searched by a person of the same sex as the person being searched.

- (d) board, search and freely remain on any vessel or train, or board and search any aircraft on which rough or uncut precious stones are being or are suspected to be

conveyed.

19. Powers of police concerning parcels and packages containing precious stones transmitted by post

(1) Notwithstanding anything contained in any other written law, any police officer in charge of any investigation in connection with suspected unlawful traffic in rough or uncut precious stones, may stop or cause to be stopped, either during transit or otherwise, any parcel or package which is being or has been transmitted through the post and in respect of which he has good cause to believe that it contains rough or uncut precious stones.

(2) Where any such parcel or package has been so stopped the police officer concerned shall, by notice in writing served personally upon the person by whom such parcel or package was despatched, call upon such person to attend either personally or by an agent duly authorized by that person in writing, at the time and place specified in such notice for the purpose of being present at the opening and examination of the parcel or package, and thereupon at the time and place appointed in such notice such police officer shall open and examine the parcel or package for the purpose of determining its contents.

20. Powers of Minister to cancel precious stone dealer's licence

- (1) The Minister may, if after enquiry he is satisfied that any precious stones dealer-
- (a) is or has been or is on reasonable grounds suspected of being or having been engaged in illicit trade in rough or uncut precious stones or unwrought precious metal in contravention of this Act or any other law;
 - (b) has been convicted of any offence and sentenced to any term of imprisonment without the option of a fine or to a fine of or exceeding P100;
 - (c) associates with undesirable or suspected persons; or
 - (d) is for any other reason not a fit and proper person to hold a precious stones dealer's licence,

by notice in writing addressed to such dealer cancel his precious stones dealer's licence as from a date to be specified in the notice which shall not be less than one month from the date of the notice.

(2)

21. Precious stones found or picked up by chance to be delivered to police in certain circumstances

(1) Any person who by chance finds or picks up any rough or uncut precious stone at any place (not being a mining area), or on any land (not being land on which he or his employer is lawfully prospecting or mining for precious stones), shall forthwith take and deliver such precious stone to the person in charge of the nearest station of the Botswana Police Force.

(2) As soon as may be after the receipt of such precious stone the person so in charge shall transmit it to the Minister through the Director of Mines and the Minister shall, if he is satisfied as to the ownership of the precious stone, deliver it to the owner thereof, or, if he is not so satisfied, cause a notice to be published in the *Gazette* calling upon any person who may be the owner of the precious stone or entitled to be in possession thereof to prove his ownership or right of possession.

(3) If within a period of 21 days of the date of publication of such notice no person has furnished such proof to the satisfaction of the Minister, he shall cause the precious stone in question to be sold and the proceeds thereof to be paid into the Consolidated Fund:

Provided that a sum calculated at one-third of the amount realised by the sale shall be paid to the person by whom the precious stone was picked up or found.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to the penalties set forth in section 9.

22. Evidence in proceedings under this Part

In any proceedings for an offence under this Part or for attempting or conspiring with another person to commit such an offence-

- (a) a certificate purporting to be signed by a Government geologist or by some other qualified geologist to the effect that any article or substance, the subject of the proceedings, is a rough or uncut precious stone shall be admissible in evidence without further proof thereof and the court shall presume that the facts stated therein are true unless the contrary is proved;
- (b) where it is proved that any article or substance, the subject of the proceedings, is a rough or uncut precious stone, the court shall presume that any person accused in the proceedings knew, at all material times, the article or substance to be a rough or uncut precious stone unless the contrary is proved; and
- (c) the court shall presume that any person accused in the proceedings was not, at any material time, licensed, authorized or otherwise entitled by or under this Act to buy, deal in, receive by way of barter, pledge or otherwise, sell, offer or expose for sale, barter, pledge or otherwise, dispose of or deliver for the purpose of trade or have in his possession rough or uncut precious stones or any particular rough or uncut precious stone unless the contrary is proved.

23. Forfeiture of licence or permit in case of conviction

The court convicting any person of any offence under this Part may, if such person is at the time of his conviction the holder of any licence under this Part, suspend such licence for such period as the court may determine.

24. Disposal of precious stones in case of conviction and forfeiture of moneys, etc. in certain circumstances

(1) On the conviction of any person under any provision of this Part, the court convicting him may in its discretion order that any rough or uncut precious stone in respect of which such person has been so convicted be delivered to the owner thereof (if the court is satisfied as to the ownership) or, if the court is not so satisfied, declare such precious stone to be forfeited to the State.

(2) Whenever any member or agent of the Botswana Police Force has transferred possession of any rough or uncut precious stone to any person upon payment or delivery by such person to such member or agent of an amount in money or other consideration, property or security, and such person is subsequently in connection with such transaction convicted of an offence under this Act, such money or consideration, property or security shall, notwithstanding anything to the contrary contained in any law, be forfeited to the State.

PART IV

Precious Stones Protection Areas and Precious Stones Security Areas (ss 25-26)

25. Precious stones protection areas

(1) The President may, with the consent of the owner thereof or the holder of any mining lease relating thereto, by order published in the *Gazette*, declare an area of land, a building or part of a building to be a precious stones protection area, and define the boundaries of such area, building or part of a building.

(2) The Minister may make, in respect of such area, building or part of a building, regulations for the administration of such area, building or part of a building and for the better protection of the precious stones industry in Botswana and without derogating from the generality of the foregoing powers, such regulations may deal with all or any of the following matters-

- (a) the residence of persons in such area, building or part of a building;
- (b) the removal of persons from such area, building or part of a building;
- (c) with the consent of the owner or lessee thereof, any area, building or part of a building, vessel or other conveyance on or in which precious stones are kept, stored, worked, cut, transported, carried or otherwise dealt with;
- (d) the removal and exclusion from such area, building or part of a building of any person whom the Minister shall deem it expedient for the administration of such area, building, a part of a building or for the better protection of the precious stones industry in Botswana so to remove and exclude.

(3) It shall be lawful for the Minister to apply any or all of such regulations, or such of them as may be applicable with or without modifications or conditions to all precious stones protection areas or to any specified part or parts thereof.

(4) The Minister may impose a fine not exceeding P500 or imprisonment for a term not exceeding six months, or to both, for the breach of any regulation made under this section.

26. Precious stones security areas

- (1) The Minister may, by order published in the *Gazette* declare-
- (a) any mining area with the consent of the holder of the lease;
 - (b) any prospecting area with the consent of the holder of the prospecting licence and the owner of the land;
 - (c) with the consent of the owner or lessee thereof, any area, building or part of a building, vessel or other conveyance on or in which precious stones are kept, stored, worked, cut, transported, carried or otherwise dealt with,

to be a precious stones security area.

(2) No person may enter or remain within a precious stones security area unless he is in possession of a valid permit in the prescribed form authorizing him to do so.

(3) Such permit may be issued by such person as may be designated for the purpose by the Minister by notice published in the *Gazette*, and, in issuing such permit, such person shall comply with such directions as may be given in the matter by the Minister.

(4) The issue of a permit may be refused without any reason being given.

(5) Any person who enters or remains in a precious stones security area in contravention of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding one year.

PART V

Dealing in Semi-Precious Stones (ss 27-36)

27. Prohibition of unlicensed trading in semi-precious stones

No person shall purchase or otherwise acquire for the purposes of trade any unworked semi-precious stones unless he is a semi-precious stones dealer:

Provided that this section shall not apply to-

- (i) a person who purchases or otherwise acquires such stones from a semi-precious stones dealer; or
- (ii) the holder of a mining lease who recovers such stones from the mining area subject to the lease if a right to mine such semi-precious stones as are recovered is included in the lease.

28. Application for semi-precious stones dealer's licence

Any person wishing to obtain a semi-precious stones dealer's licence shall apply in writing to the Minister through the Director of Mines giving such information as the Minister may require, and the Minister shall either grant the application and issue such a licence or refuse the

application.

29. Semi-precious stones dealer's licence may be issued subject to conditions

The Minister may issue a semi-precious stones dealer's licence subject to such conditions as he may determine, which conditions shall be specified in the licence, and may from time to time vary such conditions in which case the licence shall be amended accordingly.

30. Validity and renewal of semi-precious stones dealer's licence

A semi-precious stones dealer's licence issued in terms of section 28, shall be valid for a period not exceeding five years, and shall be renewable for periods not exceeding five years at a time.

31. Semi-precious stones dealer's licence fee

(1) An application for a semi-precious stones dealer's licence, shall be accompanied by such fee as the Minister may prescribe.

(2) The fee referred to in subsection (1), shall be payable annually, within the last three months before the end of a period of 12 months from the date on which each previous payment was made.

32. Sale to be by wholesale only

A semi-precious stones dealer shall not sell any semi-precious stones purchased or otherwise acquired by him under his semi-precious stones dealer's licence except by wholesale.

33. Semi-precious stones dealers to render returns

Not later than 30th April, 31st July and 31st October and not later than the 31st January immediately after his licence expires every semi-precious stones dealer shall render to the Minister through the Director of Mines in respect of the immediately preceding three months or part thereof ending 31st March, 30th June, 30th September and 31st December a return showing-

- (a) the type, weight and gross cost of all semi-precious stones purchased or otherwise acquired by him;
- (b) the type, weight and gross sales value of all semi-precious stones sold by him; and
- (c) such other information as the Minister may reasonably require.

34. Royalty on sales of semi-precious stones

(1) Every semi-precious stones dealer shall pay a royalty to the Government in respect of all semi-precious stones sold by him.

(2) The royalty payable under this section shall be a sum equal to three per cent of the gross sales value of all semi-precious stones sold by the dealer, as declared in any return rendered

under section 33, and shall be paid when each such return is rendered.

(3) The Minister may, by order published in the *Gazette*, amend subsection (2) in order to vary the rate of royalty thereby prescribed.

35. Cancellation of semi-precious stones dealer's licence

(1) The Minister may forthwith cancel the semi-precious stones dealer's licence of any dealer convicted of an offence under this Act.

(2) Where a semi-precious stones dealer's licence is cancelled under this section the dealer shall-

- (a) not be entitled to a refund of any part of the fee paid for the licence in respect of any unexpired period of the licence;
- (b) not later than one month after the date of cancellation of the licence, in respect of any period between the date of issue of his licence or the end of the last three months or part thereof in respect of which he was required to render a return under section 33, whichever is the later, and the date of cancellation of the licence, render to the Minister through the Director of Mines a return containing all the information required by section 33 and pay to the Government a levy calculated in accordance with section 34.

36. Offences under this Part

Any person who contravenes this Part or any condition subject to which a semi-precious stones dealer's licence has been issued to him shall be liable to a fine not exceeding P250 or to imprisonment for a term not exceeding three months, or to both, and, in the event of a second or subsequent conviction, to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

PART VI ***Miscellaneous (ss 37-38)***

37. Search of persons and things

(1) The Minister may by notice published in the *Gazette* authorize any person to exercise the powers conferred by this section in relation to any precious stones protection area or precious stones security area involving rough or uncut precious or semi-precious stones, or to any operations involving the storing, manufacturing, classifying, sorting, valuing, transporting, buying or selling of such stones.

(2) Any person authorized under subsection (1) shall have the right to search or cause to be searched-

- (a) any person, whether employed in connection with such operations or not, on any land upon which the operations are being conducted, or within any mining or residential area connected with such operations or any area in respect of which any rights under the Mines and Minerals Act, are held for the purposes of such operations, or in any

building or structure erected upon such land or within any such area; or

- (b) any vehicle in the possession of or any article worn by or in the possession of any such person.

(3) A search in terms of subsection (2) may include the dismantling or taking apart of any such vehicle or article, and any such search of a person shall be carried out with strict regard for decency only by a person of the same sex as the person being searched.

(4) Any person who contravenes the provisions of this section or who refuses to be searched as aforesaid or who obstructs any authorized person conducting a search under this section shall be guilty of an offence and liable to a fine not exceeding P4,000.

38. Regulations

(1) The Minister may make regulations-

- (a) for any matter required to be made by regulations under this Act;
- (b) prescribing anything which in terms of this Act is to or may be prescribed;
- (c) prescribing the circumstances under which precious and semi-precious stones may be exported from or imported into Botswana and prohibiting the export or import of such stones other than in the manner prescribed;
- (d) designating a person by or through whom precious and semi-precious stones may be exported from or imported into Botswana;
- (e) prescribing the form of any register or other record required to be kept under or for the purposes of this Act;
- (f) for the prevention of or safeguarding against illicit trading in precious and semi-precious stones, including the search of persons, places and things;
- (g) the prevention of conditions of employment in prospecting or mining areas which in the opinion of the Minister are conducive to illicit dealing in precious and semi-precious stones;
- (h) the prohibition or restriction of entry or sojourn upon or passage over prospecting or mining areas for precious and semi-precious stones by any person or class of persons;
- (i) regulating and restricting search by means of X-ray apparatus;
- (j) prescribing fees for permits issued under this Act or copies of such permits and prescribing to what persons such fees shall be paid;
- (k) generally for the better carrying out of the provisions of this Act.

(2) A person who contravenes the provisions of any regulations made in terms of subsection (1), shall be guilty of an offence and liable to a fine not exceeding P20,000 or to imprisonment

for a term not exceeding one year or to both.