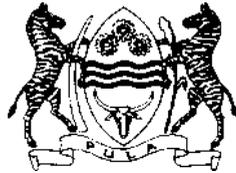


THE PRECIOUS STONES INDUSTRY (PROTECTION) ACT, 1969

No. 3



of 1969

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 Places 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 unauthorised persons
8. Issue of precious stone dealers' licences
9. False statement by applicant for licence or permit
10. No dealings allowed between sunset and sunrise, or on Sundays or public holidays
11. Prohibited Interests
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. Precious stones brought or imported into any district to be registered
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 stones dealers' licences
21. Precious stones found or picked up by chance to be delivered to Police in certain circumstances
22. Burden of proof 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 STONE PROTECTION AREAS AND PRECIOUS STONE SECURITY AREAS

25. Declaration of Protection Areas and Rules therefor
26. Declaration of Security Areas

PART V

MISCELLANEOUS

27. Search of Persons and Things
28. Regulations
29. Repeals

AN ACT TO PROVIDE FOR THE PROTECTION OF THE PRECIOUS STONES INDUSTRY AND THE REGULATION OF DEALINGS IN PRECIOUS STONES

Date of Assent: 29.1.69.

Date of Commencement: 14.2.69.

ENACTED by the Parliament of Botswana.

PART I

PRELIMINARY

Short Title

1. This Act may be cited as the Precious Stones Industry (Protection) Act, 1969.

Interpretation

2. 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;

“licensed dealer” means the holder of a current precious stones dealer’s licence issued in terms of section 8;

“mining right” means mining right acquired under the provisions of Part III of the Mines and Minerals Act, 1967 (No. 50 of 1967);

“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 and any other substances which the Minister may by order in the *Gazette* declare to be a precious stone for the purposes of this Act;

“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 right” means a prospecting right acquired under the provisions of Part II of the Mines and Minerals Act, 1967;

“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.

PART II

DISCOVERY OF PRECIOUS STONES AND OFFENCES IN CONNECTION THEREWITH

Duty of holder of prospecting right to Report Discovery of Precious Stones

3. (1) The holder of a prospecting right who has discovered precious stones shall forthwith give written notice of his discovery to the Mining Commissioner, and shall thereafter transmit to the mining commissioner, within seven days after the last day of every month, or at such shorter intervals as the Mining Commissioner 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) A copy of any such declaration together with the precious stones referred to therein or records of their disposal shall be produced for inspection

to any police officer of or above the rank of Inspector or to the Mining Commissioner.

(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 on conviction to a fine of R100, or in default of payment to imprisonment for a period of six months.

(4) If the holder of a prospecting right 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, 1967, 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.

Penalty for Making False Declaration of Discovery of Precious Stones

4. 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 on conviction 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.

Placing of Precious Stones in Place Where Not Naturally Found

5. (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 on conviction to imprisonment for 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 precious stone in such place with the intent mentioned in that subsection.

PART III
DEALING IN PRECIOUS STONES

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

6. (1) Save 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 –
 - (i) he has been duly licensed or authorized in terms of this Part to deal in rough or uncut precious stones as buyer or seller;
 - (ii) he is a banker in Botswana;
 - (b) 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 right relating to precious stones obtained under the provisions of the Mines and Minerals Act, 1967 (No. 50 of 1967);
 - (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 sub-paragraph (ii) or (iii) of this paragraph; 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 sub-section (1) shall not be construed as authorising 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 provisions of subsection (1) shall be guilty of an offence and liable on conviction to imprisonment for a period of fifteen years.

Prohibition against Purchase from or Sale to Unauthorized Persons

7. (1) No person exempted under paragraph (a) of subsection (1) of section 6 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 or 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 on conviction to the penalties prescribed in subsection (3) of section 6.

Issue of Precious Stone Dealers' Licences

8. (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 by any person of or over the age of twenty-one years from the Minister.

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

- (i) that the applicant is not a fit and proper person to hold the licence applied for;
- (ii) 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;
- (iii) that there is a sufficient number of persons carrying on such business in Botswana; or
- (iv) 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, he shall in writing notify the applicant of his decision and the applicant may, if he is dissatisfied with such decision, within thirty days of the date of receipt of such notification appeal to the President who may dismiss the appeal or direct the Minister to issue to the appellant the licence applied for, and whose decision shall be final.

(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 R10,000 and shall be subject to such conditions as may be set forth in such form.

(5) A precious stones dealer's licence shall be issued in respect of a calendar year on payment of a fee of R500.

(6) Any such licence issued for a year shall expire on the thirty-first day of December of the year in respect of which it is issued.

False Statement by Applicant for Licence or Permit

9. (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 on conviction to a fine of R1,000, or to imprisonment for a period of two years or to both such fine and such imprisonment.

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

No Dealings allowed between sunset and sunrise, or on Sundays or Public Holidays

10. (1) No person shall buy, deal in or receive by way of barter, pledge or otherwise, or sell or offer or expose for sale, barter, pledge or otherwise, or in any way for the purpose of trade dispose of or deliver, either as principal or agent, any rough or uncut precious stone between sunset and sunrise or on any Sunday or any public holiday.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine of R2,000 or to imprisonment for a period of two years or to both such fine and such imprisonment.

Prohibited Interests

11. (1) No licensed dealer nor the wife of any such dealer, shall, without the permission in writing of the Minister, hold any interest, direct or indirect –

- (a) in any prospecting right for precious stones;
- (b) in any mining right for precious stones;
- (c) in any diamond cutting business;

whether within or outside Botswana.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day on which the offence continues or to imprisonment for a period of six months or to both such fine and such imprisonment.

Licensed Dealer to have place of business and dealings to be confined to such place

12. (1) Every licensed 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 licensed dealer shall affix in some conspicuous place on the outside of and over or 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 Stone Dealer" or "Licensed Precious Stone Dealers", as the circumstances may require, such name or style and the said words to be printed in capital letters at least two inches in height and to be plainly visible and legible.

(3) Subject to the succeeding provisions of this section and the provisions of section 14 no licensed 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 stone dealer's licence or premises of which the situation has been endorsed on that licence in accordance with the provisions of section twelve.

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

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

(6) No licensed 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 licensed dealer shall, except with the consent in writing of the Minister allow any person who is not the holder of a precious stone 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 on a first conviction to a fine of R200 and on a second or subsequent conviction to a fine of R500.

Removal or Extension of Licensed Dealer's place of Business

13. If the removal of any licensed 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.

Where Certain Persons may sell or dispose of Precious Stones

14. (1) No producer or accredited agent of a producer or holder of a permit 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 on conviction to the penalties set forth in section eleven.

Notes of Sale and Purchase

15. (1) Whenever any licensed 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 ten carats; or
 - (ii) of which the value is not under R200; 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.

(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 on conviction to the penalties set forth in section nine.

Persons Dealing in Rough or Uncut Precious Stones to keep Register of Transactions

16. (1) Every banker, licensed 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 ten carats; or
 - (ii) of which the value is not under R200, 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 twenty-four 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 and to the Mining Commissioner 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;
 - (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 on conviction to the penalties set forth in section 9.

Precious Stones brought or imported into any District to be Registered

17. (1) Any person who brings or imports any rough or uncut precious stone into any district from any place beyond such district shall, not later than the first business day following the date on which such precious stone is so brought in or imported, register such precious stone at the office of the District Commissioner serving the district in question.

(2) Such registration shall be in the form prescribed and such form shall set forth the particulars which shall be furnished by such person.

(3) The District Commissioner shall forthwith notify the Mining Commissioner of such registration.

(4) The Minister may on such conditions as he may deem fit exempt any person from the provisions of subsection (1).

(5) Any person who fails to comply with the provisions of this section or any condition subject to which he has been exempted under subsection (3) shall be guilty of an offence and liable on conviction to the penalties set forth in section 6.

Powers of Police to Search for Rough or Uncut Precious Stones

18. (1) Any authorised 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 female shall not be searched by any person other than a female;

(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.

(2) In this section, "Authorised Officer" means -

- (a) any police officer of or above the rank of Inspector; or
- (b) any police officer of the rank of sergeant or sub-inspector authorised by the Commissioner of Police by writing under his hand to exercise the powers of an authorised officer under this section.

Powers of Police Concerning Parcels and Packages containing Precious Stones transmitted by post

19. (1) Notwithstanding anything in any other law contained, any police officer of or above the rank of Inspector 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 member of the Botswana Police 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.

Powers of Minister to cancel Precious Stone Dealer's Licences

20. (1) The Minister may, if after enquiry he is satisfied that any licensed 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 R100;
- (c) associates with undesirable or suspected persons; or
- (d) is for any other reason not a fit and proper person to hold a precious stone dealer's licence,

by notice in writing addressed to such dealer cancel his precious stone 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) Any person whose licence has been cancelled under the provisions of subsection (1) may appeal to the President who may allow or dismiss the appeal and whose decision shall be final.

Precious Stones found or picked up by chance to be delivered to Police in certain circumstances

21. (1) Any person who by chance finds or picks up any rough or uncut precious stone at any place (not being a mining area as defined in section 2 of the Mines and Minerals Act, 1967) 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 or the Mining Commissioner.

(2) As soon as may be after the receipt of such precious stone the person so in charge shall transmit it to the Mining Commissioner who 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 twenty-one days of the date of publication of such notice no person has furnished such proof to the satisfaction of the Mining Commissioner, he shall cause the precious stone in question to be sold and the proceeds thereof to be paid into the Consolidated Revenue 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 on conviction to the penalties set forth in section nine.

Burden of Proof in Proceedings under this Part

22. Whenever in any proceedings against any person under this Part –

- (a) it is necessary to ascertain whether he is or was the holder of any licence or authority or otherwise entitled to be in possession of or authorized to buy, sell, deal in, receive or dispose of rough or uncut precious stones; or
- (b) such person contends that any article or substance, the subject of the proceedings, is not a rough or uncut precious stone,

the burden of proving that he is or was the holder of such licence or authority or that he is or was otherwise entitled or authorized as aforesaid, or that such article or substance is not a rough or uncut precious stone, as the case may be, shall lie upon such person.

Forfeiture of Licence or Permit in case of Conviction

23. 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.

Disposal of Precious Stones in case of Conviction and Forfeiture of Moneys, etc. in certain circumstances

24. (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 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 in any law contained, be forfeited to the State.

PART IV

PRECIOUS STONE PROTECTION AREAS AND PRECIOUS STONE SECURITY AREAS

Declaration of Precious Stone Protection Areas and Rules therefor

25. (1) The President may with the consent of the owner thereof by Order in the *Gazette* declare an area of land to be a Precious Stone Protection Area, and define the boundaries of such area.

(2) The Minister may make, in respect of such area, regulations for the administration of such area 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;
- (b) the removal of persons from such area;
- (c) the powers of arrest which may be exercised in respect of any person suspected of being guilty of an offence under any rule made under this section;
- (d) the removal and exclusion from such area of any person whom the Minister shall deem it expedient for the administration of such area 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 rules, or such of them as may be applicable with or without modifications or conditions to all Precious Stone Protection Areas or to any specified part or parts thereof.

(4) The President may impose a penalty of R500 or imprisonment with or without hard labour for a period of six months, or both such fine and imprisonment, for the breach of any rule made under this section.

Precious Stone Security Areas

26. (1) The Minister may by order in the *Gazette*, declare –

- (a) any mining area, as defined in section 2 of the Mines and Minerals Act, 1967, with the consent of the holder of the mining right;
- (b) any area on which prospecting operations are taking place with the consent of the holder of the prospecting right and the owner of the land;

to be a Precious Stone Security Area.

(2) No person may enter or remain within a Precious Stone 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 by the Minister by notice in the *Gazette*, and, in issuing such permit, such person shall comply with such directions as may be given in the matter by the Mining Commissioner.

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

(5) Any person who enters or remains in a Precious Stone Security Area in contravention of the provisions of this section shall be guilty of an offence and liable to imprisonment for a period of twelve months.

PART V

MISCELLANEOUS

Search of Persons and Things

27. (1) Any person authorised by the Minister by notice in the *Gazette* to exercise the powers conferred by this section in relation to any prospecting or mining operations designated by the Minister in the notice 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, 1967, are held for the purposes of such operations, or in any building or structure erected upon such land or within any such area;
- (b) any vehicle in the possession of or any article worn by or in possession of any such person.

(2) A search in terms of subsection (1) 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 and, in the case of a female, be made by a female only.

(3) Any person who contravenes or fails to comply with 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 on conviction to a fine of R200.

Regulations

28. (1) The Minister may make regulations –

- (a) prescribing anything which in terms of this Act is to or may be prescribed;
- (b) prescribing the circumstances under which 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;
- (c) designating a person by or through whom precious stones may be exported from or imported into Botswana;
- (d) prescribing the form of any register or other record required to be kept under or for the purpose of the Act;
- (e) for the prevention of or safeguarding against illicit trading in precious stones, including the search of persons, places and things;
- (f) 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 stones;
- (g) the prohibition or restriction of entry or sojourn upon or passage over prospecting or mining areas for precious stones by any person or class of persons;
- (h) generally for the better carrying out of the provisions of this Act.
- (i) regulating and restricting search by means of X-ray apparatus.

(2) A regulation made under the provisions of subsection (1) may provide a penalty for the contravention thereof or failure to comply therewith of an amount not exceeding R1,000 or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

Repeals

29. The Diamond Trade Proclamation (Chapter 124) is repealed.

Passed by the National Assembly this day, the 13th December, 1968.

G.T. MATENGE,
Clerk of the National Assembly.