

**PRECIOUS AND SEMI-PRECIOUS STONES (PROTECTION)
(AMENDMENT) ACT, 2021**

No. 15



of 2021

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**An Act to amend the Precious and Semi-Precious Stones
(Protection) Act.**

Date of Assent: 08.10.2021

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Precious and Semi-Precious Stones (Protection) (Amendment) Act, 2021, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Precious and Semi-Precious Stones (Protection) Act (hereinafter referred to as "the Act") is amended in section 2 by inserting in their correct alphabetical order, the following new definitions —

Amendment of section 2 of Cap. 66:03

Cap. 66:04	<p>““authorized officer” means any person authorized by the Minister to exercise the powers conferred under this Act, by a notice published in the <i>Gazette</i>;</p> <p>“diamond cutter’s licence” means a licence issued under the Diamond Cutting Act; and</p> <p>“diamond toolmaker’s licence” means a licence issued under the Diamond Cutting Act.”</p>
Amendment of section 3 of the Act	<p>3. Section 3 of the Act is amended in subsection (3) by substituting for the words “P100, or in default of payment to imprisonment for a term not exceeding six months” appearing therein, the words “P1, 000, 000, or in default of payment to imprisonment for a term not exceeding five years.”.</p>
Amendment of section 4 of the Act	<p>4. Section 4 is amended by substituting for that section, the following new section —</p> <p>“Penalty for making false declaration of discovery of precious stones</p> <p>4. Any person who makes any declaration of discovery of precious stones under this part well knowing that —</p> <p>(a) the precious stones declared to have been found by himself or by some other person were 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;</p> <p>(b) the precious stones did not naturally exist in or on the place or on the soil or rock where they were declared to have been found or discovered; or</p> <p>(c) the precious stones were not found or discovered at or near the place where they were declared to have been found or discovered,</p> <p>shall be guilty of an offence and liable to the penalties prescribed by law for the crime of perjury, and all the rights acquired by him in consequence of any such declaration of discovery shall lapse.”.</p>
Amendment of section 6 of the Act	<p>5. Section 6 of the Act is amended —</p> <p>(a) in subsection (1) paragraph (d), by inserting immediately after subparagraph (iv), the following new subparagraphs —</p> <p>“(v) he is the holder of a diamond cutter’s licence or a diamond toolmaker’s licence, or</p> <p>(vi) such person is a bank.”; and</p> <p>(b) in subsection (3) paragraph (a), by inserting immediately before the word “imprisonment”, the words “to a fine not exceeding P1 000 000, or in default of payment to”.</p>
Insertion of section 7A. in the Act	<p>6. The Act is amended by inserting immediately after section 7, the following new section —</p> <p>“Import and export of rough or uncut precious stones</p> <p>7A. (1) A person shall not import or export a rough or uncut precious stone unless such precious stone is inspected by an authorized officer.</p> <p>(2) Any person who contravenes the provision of subsection (1) shall be guilty of an offence and liable —</p>

- (a) to a fine not exceeding P1, 000, 000, or in default of payment to imprisonment for a term not exceeding five years; and
- (b) for a second or subsequent offence, to imprisonment for a term not exceeding 10 years.”.

7. Section 8 of the Act is amended –

Amendment of section 8 of the Act

(a) by substituting for subsection (1), the following new subsection –
 “(1) Subject to the provisions of this section, a precious stones dealer’s licence, in the form prescribed by the Minister, may be obtained from the Minister entitling the holder, during the duration of the licence, to sort, value or otherwise deal in rough or uncut precious stones.”; and

(b) by substituting for subsection (2), the following new subsection –
 “(2) The Minister shall not issue a precious stones dealer’s licence to –

(a) a person who –

- (i) is under the age of 18 years,
- (ii) is a shareholder or a director of a company which has contravened this Act or any other law,
- (iii) has been adjudged or otherwise declared bankrupt, whether under the laws of Botswana or elsewhere, and has not been discharged, or
- (iv) has, within the period of 10 years immediately preceding the date of his application for a licence, been convicted in Botswana, of a criminal offence, or outside Botswana, of an offence which, if committed in Botswana, would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for a term of six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon;

(b) a company which –

- (i) is in liquidation or under judicial management, except where such liquidation or judicial management is a part of a scheme for the reconstruction or amalgamation of such company, or
- (ii) has among its directors or shareholders any person who would be disqualified in terms of paragraph (a); or

(c) any person to whom, for any other reason, the issue of the licence applied for is not warranted or is undesirable.”.

8. Section 9 of the Act is amended in subsection (1) by substituting –

Amendment of section 9 of the Act

(a) for the word “P1,000” appearing therein, the word “P500, 000”; and

(b) for the words “two years” appearing therein, the words “six months.”

9. Section 14 of the Act is amended by substituting for the words “section 11” appearing in subsection (2), the words “section 6(3)”.

Amendment of section 14 of the Act

Insertion of section 14A. in the Act

10. The Act is amended by inserting immediately after section 14, the following new section —

“Notification of rough or uncut precious stone

14A. (1) A producer who comes into possession of a rough or uncut precious stone of unusual geological or gemmological nature mined in Botswana shall notify the Minister of his possession of the rough or uncut precious stone within 30 days of such possession.

(2) The Government shall have the first option to buy a rough or uncut precious stone referred to in subsection (1).

(3) The price to be paid under subsection (2) by the Government for a rough or uncut precious stone offered for sale by a producer shall be as agreed between the parties in accordance with the current market price of the rough or uncut precious stone.

(4) A producer who fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding P500,000.”.

Amendment of section 15 of the Act

11. Section 15 of the Act is amended in subsection (2) (d)(i) by substituting for the words “10 carats” appearing therein, the words “10.8 carats”.

Amendment of section 16 of the Act

12. Section 16 of the Act is amended —

(a) in the sidenote, by substituting for the words “Persons dealing in rough or uncut precious stones to keep register of transactions”, the words “Obligation of person dealing in precious stones”;

(b) in subsection (1)(b)(i), by substituting for the words “10 carats” appearing therein, the words “10.8 carats”; and

(c) in subsection (3)(a), by substituting for the word “seven” appearing therein the word “15”.

Insertion of section 16A. in the Act

13. The Act is amended by inserting immediately after section 16, the following new section —

“Particulars of precious stones 16A. A precious stones dealer shall —

(a) maintain, at the address referred to in section 16(1) —

(i) complete and accurate technical records of his operation, and

(ii) accurate financial records of his operations and such other books of accounts as the Minister may require;

Provided that where a holder of a precious stones dealer’s licence is engaged in any other activity not connected with his operation under the precious stones dealer’s licence, he shall maintain separate books of accounts of his operation under the other licence;

(b) permit an authorized officer, to inspect the financial records of his operations and books of accounts, and shall deliver to the Minister, without charge, copies of any part of such records of his operation, books and financial records as the Minister may from time to time require; and

(c) furnish the Minister with a copy of his annual audited financial statements within six months of the end of each financial year and all audited half yearly or unaudited quarterly sales figures.”.

14. Section 20 of the Act is amended in subsection (1)(b), by substituting for the word “P100” appearing therein, the word “P10,000”.

Amendment of section 20 of the Act

15. Section 25 of the Act is amended —

(a) in subsection (1) by substituting for the subsection, the following new subsection —

Amendment of section 25 of the Act

“(1) The Minister may, at the request of the owner or holder of a mining lease or the holder of a licence issued under the Diamond Cutting Act, declare by an Order published in the *Gazette*, an area of land, a building or part of a building to be a precious stones protection area or a precious stones security area, and define the boundaries of such area of land, building or part of a building.”; and

(b) in subsection (4) by substituting —

(i) for the word “P500” appearing therein, the words “P50,000”, and

(ii) for the words “six months” appearing therein, the words “two years”.

16. Section 36 of the Act is amended by substituting for that section, the following new section —

Amendment of section 36 of the Act

“Offences under this Part

36. Any person who fails to comply with any of the provisions of this Part or any condition of a precious stone’s dealer’s licence which has been issued to him shall be guilty of an offence and liable to a fine not exceeding P20,000, and for a second or subsequent offence, to a fine not exceeding P50,000 or to imprisonment for a term not exceeding six months, or to both.”.

17. Section 37 of the Act is amended by substituting for the word “P4,000” appearing in subsection (4), the words “P50,000 or to imprisonment for a term not exceeding six months, or to both.”.

Amendment of section 37 of the Act

18. The Act is amended by inserting immediately after section 37, the following new section —

Insertion of section 37A. in the Act

“Powers of inspection

37A. An authorized officer may, at all reasonable times, exercise the powers of inspection 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, or involving an area of land, a building or part of a building to be a precious stones protection area or a precious stones security area, and to define the boundaries of such area of land, building or part of a building.”.

Amendment
of section 38
of the Act

- 19.** Section 38 of the Act is amended in subsection (2) by —
- (a) substituting for the word “P20, 000” appearing therein, the word “P500, 000”; and
 - (b) substituting for the words “one year” appearing therein, the words “six months”.

PASSED by the National Assembly this 16th day of August, 2021.

BARBARA N. DITHAPO,
Clerk of the National Assembly.