

**PRECIOUS AND SEMI-PRECIOUS STONES (PROTECTION)
(AMENDMENT) ACT, 2022**

No. 17



of 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 2 of Cap. 66:03
3. Amendment of section 8 of the Act
4. Amendment of section 20 of the Act
5. Insertion of section 20A. in the Act
6. Insertion of section 35A. in the Act

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

Date of Assent: 25.02.2022

Date of Commencement: 25.02.2022

ENACTED by the Parliament of Botswana.

- | | |
|--|---|
| <p>1. This Act may be cited as the Precious and Semi-Precious Stones (Protection) (Amendment) Act, 2022.</p> <p>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 —</p> <p style="padding-left: 40px;">““investigatory authority” has the same meaning assigned to it under the Financial Intelligence Act;</p> <p style="padding-left: 40px;">“supervisory authority” has the same meaning assigned to it under the Financial Intelligence Act.”.</p> <p>3. Section 8 of the Act is amended by substituting for subsection (2), the following new subsection —</p> <p style="padding-left: 20px;">“(2) The Minister shall not issue a precious stones dealer’s licence to —</p> <p style="padding-left: 40px;">(a) a person who —</p> <p style="padding-left: 80px;">(i) is under the age of 18 years,</p> <p style="padding-left: 80px;">(ii) is subject of an investigation by a supervisory authority or an investigatory authority;</p> <p style="padding-left: 80px;">(iii) is a person holding a senior management position in a company which is disqualified from trading by a professional, or similar body or a supervisory authority;</p> <p style="padding-left: 80px;">(iv) is reasonably determined by a supervisory authority to not be a fit and proper person to hold a precious stones dealer’s licence;</p> | <p>Short title</p> <p>Amendment of section 2 of Cap. 66:03</p> <p>Cap. 08:07</p> <p>Cap. 08:07</p> <p>Amendment of section 8 of the Act</p> |
|--|---|

- (v) who is a shareholder or a director of a company which has contravened this Act or any other law,
 - (vi) has been adjudged or otherwise declared bankrupt, whether under the Laws of Botswana or elsewhere, and has not been discharged, or
 - (vii) has, within a period of 5 years immediately preceding the date of his or her application for a licence been convicted in Botswana of a criminal offence, relating to the illicit possession or dealing in precious stones or semi-precious stones, or outside Botswana of an offence relating to illicit possession or dealing in precious stones or semi-precious stones;
- (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.”.

Amendment of section 20 of the Act

4. The Act is amended in section 20 by substituting paragraph (d) for the following paragraph —

“(d) is a person referred to under section 8 (2);”.

Insertion of section 20A in the Act

5. The Act is amended by inserting immediately after section 20, the following new section —

“Suspension of precious stones dealer’s licence
20A. (1) The Minister may suspend the precious stone licence of any dealer if he is satisfied that the dealer —

- (a) has not carried out a business of which the dealer is licensed with integrity, prudence and professional skill;
- (b) has, without reasonable excuse, failed to comply with terms and conditions of the licence or a provision of this Act; or

(c) has obtained the licence by means of fraud or misrepresentation.

(2) Notwithstanding the provisions of subsection (1), the Minister may suspend a precious dealer’s licence on the written request by the dealer.

(3) The Minister shall, where he decides to suspend a precious dealer’s licence —

- (a) give notice of such suspension, in writing, to the dealer, which notice shall —
 - (i) state the reasons for such suspension, and

- (ii) inform the dealer to make any representation within a specified period, which shall not be more than 21 days; and
 - (b) take into account any representation made by the dealer in terms of paragraph (a) (ii).
- (4) Where the Minister has suspended a licence, under this section, he shall specify, in the notice referred to subsection (3) (a), the business operations of the precious dealer's licence that have been suspended.
- (5) Where a precious dealer's licence has been suspended under this section, the dealer shall —
- (a) not carry out the part of the business operation in relation to which the suspension relates; and
 - (b) continue to be subject to the provisions of this Act as if the licence had not been suspended, unless directed otherwise by the Minister.
- (6) A dealer that continues to carry out business operations for which the suspension relates commits an offence and is liable to a fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.”.

6. The Act is amended by inserting immediately after section 35, the following new section —

“Suspension of semi-precious stones dealer's licence

- 35A. (1) The Minister may suspend the semi-precious dealer's licence of any dealer if he is satisfied that the dealer —
- (a) has not carried out a business of which the dealer is licensed with integrity, prudence and professional skill;
 - (b) has, without reasonable excuse, failed to comply with terms and conditions of the licence or a provision of this Act; or
 - (c) has obtained the licence by means of fraud or misrepresentation.
- (2) Notwithstanding the provisions of subsection (1), the Minister may suspend a semi-precious dealer's licence on a written request by the dealer.
- (3) The Minister shall, where he decides to suspend a semi-precious dealer's licence —
- (a) give notice of such suspension, in writing, to the dealer, which notice shall —
 - (i) state the reasons for such suspension, and
 - (ii) inform the dealer to make any representation within a specified period, which shall not be more than 21 days; and
 - (b) take into account any representation made by the dealer in terms of paragraph (a) (ii).
- (4) Where the Minister has suspended a licence, under this section, he shall specify, in the notice referred to subsection (3) (a), the business operations of the semi-precious dealer's licence that have been suspended.

Insertion of section 35A in the Act

- (5) Where a semi-precious dealer's licence has been suspended under this section, the dealer shall —
- (a) not carry out the part of the business operation in relation to which the suspension relates; and
 - (b) continue to be subject to the provisions of this Act as if the licence had not been suspended, unless directed otherwise by the Minister.
- (6) A dealer that continues to carry out business operations for which the suspension relates commits an offence and is liable to a fine not exceeding P500 000 or to imprisonment for a term not exceeding 10 years or to both.”

PASSED by the National Assembly this 1st day of February, 2022.

BARBARA N. DITHAPO,
Clerk of the National Assembly.