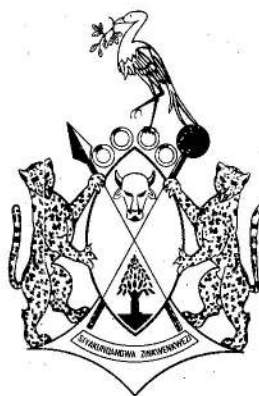


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No. 75

DEPARTMENT OF FINANCE AND ECONOMIC DEVELOPMENT

GOVERNMENT NOTICE No. 59

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION: —**

DIAMOND CUTTING ACT, 1985

ACT No. 9 OF 1985

DIAMOND CUTTING ACT, 1985

ACT

To regulate and control the cutting of diamonds and to provide for matters incidental thereto.

(English text signed by the President. Assented to on 22 July 1985).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

Definitions.

1. In this Act, unless the context otherwise indicates —
 - "approved premises", in relation to a licensee, means premises approved by the Minister in terms of section 15 (1) for the purposes of the carrying on on such premises by such licensee of diamond polishing or diamond repair work, and described in the licence issued to such licensee, or premises the address of which has been endorsed on such licence in terms of section 15 (2);
 - "certificate of registration" means a certificate of registration issued under section 19;
 - "chief of the diamond branch" means the member of the Ciskeian Police designated as chief of the Diamond and Gold Branch of the Ciskeian Police by the Commissioner, or a member of the Ciskeian Police acting under the authority of the said chief;
 - "commissioner" means the Commissioner of the Ciskeian Police;
 - "controlling interest" in relation to any company, means —
 - (a) a majority of its shares; or
 - (b) shares representing more than half of its share capital; or
 - (c) shares of a value in excess of half of the aggregate value of all its shares; or
 - (d) shares entitling the holders thereof to more than half of its profits or assets; or
 - (e) shares entitling the holders thereof to a majority or preponderance of votes; or
 - (f) any interest acquired by virtue of the grant of loans for an amount exceeding in the aggregate half of its share capital or debentures for such an amount; or
 - (g) the power to exercise, directly or indirectly, by holding any interest, whether or not of the nature referred to in paragraphs (a) to and including (f), in any other company or in any other way, any control whatsoever over the activities or assets of the company;
 - "crushed diamond" means any part of a diamond which has been subjected to any of the processes of crushing;
 - "dealer" means any person licensed or authorized under any law to deal in unpolished diamonds as a dealer, broker or factor in terms of that law;
 - "department" means the department of the Minister;
 - "diamond dust" means dust resulting from any of the processes of diamond polishing or diamond crushing;
 - "Director-General" means the Director-General of the department;
 - "fragment" means a part of a diamond separated from the main stone in the course of diamond polishing and of so irregular a shape and small a size as to be unsuitable for polishing;
 - "Gazette" means the Government Gazette of the Republic of Ciskei;
 - "holder", in relation to a licence, means a person or any company, partnership or other association of persons to whom or to which a licence has been issued, and includes, in the case of such company, partnership or other association of persons, any natural person referred to in section 11;
 - "licence" means a licence issued under this Act;
 - "licensee" means a person or any company, partnership or other association of persons to whom or to which a licence has been issued;
 - "Minister" means the Minister of Finance and Economic Development;
 - "new licensee" means a person or any company, partnership or other association of persons to whom or to which a new licence has been issued;
 - "partly manufactured diamond" means a diamond which has been subjected to one or more of the processes of diamond polishing, but not to an extent sufficient for it to be regarded by the Minister as a fully polished diamond, and includes a diamond known as an "acht kant", but does not include such an "acht kant" which the Minister has ruled shall be regarded as a fully polished diamond for the purposes of this Act;
 - "polished diamond" means a diamond which has been subjected to all the processes of diamond polishing, including the process known as brilliantteering, in accordance with the requisites of its class or form, to an extent sufficient for it to be regarded by the Minister as a fully polished diamond;
 - "polishing of diamonds" or "diamond polishing" means the sawing, cleaning, cutting dividing in any manner, faceting, brilliantteering or crushing of an unpolished diamond;
 - "prescribed" means prescribed by regulation made under section 24;
 - "President-in-Council" means the President in Executive Council;
 - "previous Act" means the Diamond Cutting Act, 1979 (Act 89 of 1979) and includes any notice, rule or regulation issued or made thereunder;
 - "registered employee" means the holder of a valid certificate of registration issued under section 19 and includes a person who, under the provisions of that section, is deemed to be the holder of such a certificate;
 - "this Act" includes any notice or regulation issued or made thereunder;

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"unpolished diamond" means a diamond in its natural state and which has not been altered through any process or in any manner and includes a partly manufactured diamond, a fragment, diamond dust and a diamond produced by any synthetic, mechanical or chemical process and which has not been so altered.

Powers in respect of entry and inspection and the obtaining of information.

2. (1) The Director-General or any person in the service of the State who has been so authorized by the Director-General or a member of the Ciskeian Police of or above the rank of sergeant may —
 - (a) at any time enter upon any place where work in connection with the polishing of diamonds is performed or suspected to be performed or where any person is employed or suspected to be employed in connection with the polishing of diamonds and may inspect such place and carry out such tests, observations, investigations and measurements as he may deem desirable;
 - (b) inspect, test, view or take photographs of any appliance, instrument or machine used in connection with the polishing of diamonds;
 - (c) question any person employed in such place in connection with the polishing of diamonds, with regard to any matter arising from the exercise of any power conferred by this subsection, or search or cause to be searched such person or any article in the possession or in the custody or under the control of such person; and
 - (d) require the production of and inspect and make copies of or take extracts from any book, document, record, register or certificate of registration required to be kept under this Act.
- (2) The Director-General may, in writing, require any person to submit to him periodically or otherwise and at such times as the Director-General may direct, any information available to such person which the Director-General deems necessary for the effective performance of the functions of the department under this Act, or to submit to the Director-General or his nominee any book or document in the possession or under the control of such person which contains or is suspected to contain any such information, and may examine and make copies of or take extracts from any such book or document.
- (3) Information called for under subsection (2) may be required to be given in the form of a sworn declaration by the person furnishing such information.
- (4) The Director-General may, by notice in writing, signed by him, require any person to appear before him or his nominee at a time and place specified in the notice, to be questioned or to produce any book or document referred to in subsection (2), and the Director-General or such nominee may administer an oath to or accept an affirmation from and may question any person appearing before him, whether in pursuance of such notice or otherwise.
- (5) Nothing in this section contained shall be construed as empowering the Director-General or his nominee to require any person to furnish any information or to produce any book or document which that person is by law prohibited from disclosing or producing or which is privileged in terms of any law and the legal rules relating to privilege as applicable to a witness summoned to give evidence or to produce any book or document in civil proceedings in a court of law shall apply in connection with the questioning of any person required to appear as contemplated in this section and in connection with the production of any book, document or information which he is obliged to produce in terms of such a requirement.
- (6) Any person who —
 - (a) refuses or fails to comply to the best of his ability with any requirement by the Director-General or a person authorized as contemplated in subsection (1) or a member of the Ciskeian Police, made in the exercise of any power conferred by that subsection,
 - (b) refuses or fails to answer to the best of his ability any question put to him by the Director-General or such person or member of the Ciskeian Police in the exercise of any power conferred by subsection (1),
 - (c) hinders or obstructs the Director-General or such person or member of the Ciskeian Police in the exercise of his powers under subsection (1) or refuses or fails to afford the Director-General or such person or member of the Ciskeian Police all reasonable facilities and assistance in order to enable him to exercise any power conferred upon him by subsection (1),
 - (d) without reasonable excuse refuses or fails to submit any information, book or document which he is required to submit in terms of the provisions of subsection (2),
 - (e) after having received a notice referred to in subsection (6), without reasonable excuse refuses or fails to appear in pursuance of such notice or, having so appeared, refuses to answer to the best of his knowledge and belief any lawful question put to him or refuses to produce any book or document which he is required to produce in terms of such notice or refuses to be sworn or to make an affirmation when required by the Director-General or his nominee to do so or who fails to remain in attendance until he is excused by the Director-General or his nominee from further attendance, or
 - (f) in reply to a requirement under subsection (2) furnishes, otherwise than in a sworn declaration, any information which is false, knowing it to be false,shall be guilty of an offence.
- (7) The department may, from moneys appropriated by the National Assembly for the purpose, compensate any

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person who has appeared before the Director-General or his nominee in response to a notice under subsection (4) for any loss sustained or expenses incurred by him in connection with his appearance, if such person has produced all books and documents which he was obliged to produce and has satisfactorily answered all questions which he was bound to answer: Provided that the total amount paid by way of compensation to any such person shall not exceed the amount which would in like circumstances have been payable to him had he been summoned to appear as a witness in a criminal case before a magistrate's court.

*Preservation
of secrecy.*

3. (1) No person shall disclose any information obtained by him in the exercise of his powers or the performance of his duties under this Act, except —
(a) to the extent to which it may be necessary for the proper administration of the provisions of this Act; or
(b) for the purposes of any legal proceedings thereunder.
(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

*Annual fee payable
by holder of diamond
cutting licence.*

4. (1) Every holder of a diamond cutting licence shall, subject to the provisions of subsection (2), annually pay to the department before the thirtieth day of April a fee determined by the Minister on such basis as the Minister may deem desirable.
(2) Notwithstanding the provisions of subsection (1) the fee referred to in that subsection shall, in the case of a new licence, be payable before such date as the Minister may determine and shall be reduced by an amount equal to one-twelfth of the amount which would have been payable in respect of such fee if the licensee concerned had been a licensee other than a new licensee, for every completed month which has expired as from the first day of January of the year in which the new licence has been issued.
(3) Interest at the rate of twenty per cent per annum or such other percentage as the Minister may from time to time determine by notice in the *Gazette* shall be payable on all fees referred to in subsection (1) which are in arrear.

*Control of diamond
polishing.*

5. (1) No person shall saw, cleave, cut, divide in any manner, facet, brillianteer or in any other manner alter any unpolished diamond unless he is —
(a) the holder of the appropriate licence prescribed by section 6; or
(b) a registered employee acting in the course of his employment with the holder of such a licence.
(2) Any person whose licence has been suspended under any provision of this Act shall during the period of such suspension be deemed not to be the holder of a licence.
(3) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

*Classification
of licence.*

6. A licence in the prescribed form may be issued in terms of the provisions of this Act in respect of the following activities, namely —
(a) the polishing of diamonds for purposes of business or trade (to be known as a diamond cutting licence);
(b) the doing of research on the physical properties of diamonds, the uses to which diamonds can be put and cognate matters: Provided that such research shall not include the polishing of diamonds for purposes of business or trade (to be known as a diamond research licence);
(c) the setting in tools or implements of unpolished diamonds which are not suitable for polishing, or the crushing or altering of such diamonds for purposes of such setting or for other trade purposes (to be known as a diamond tool-making licence); and
(d) the repair or altering of polished diamonds set in jewellery or intended for such setting (to be known as a diamond repair licence).

*Application for
new licence.*

7. (1) An application for a new licence shall be made to the Minister in the prescribed form through the Director-General.
(2) An applicant shall furnish such particulars in connection with his application as may be prescribed or as the Minister may require.
(3) Every application for a new licence shall bear uncanceled revenue stamps to the value of fifty rand.

*Grant or refusal of
application for new
licence.*

8. (1) After receipt of the application and documents referred to in section 7 the Minister may at his discretion, but subject to the provisions of subsections (5) and (6) grant or refuse the application.
(2) If the Minister refuses an application in terms of subsection (1), he shall not be required to give any reasons for his decision and the Minister's decision in connection with an application shall be final.
(3) A new licence may be issued subject to such conditions as the Minister may impose when granting the application in question and any such condition shall be endorsed on the licence, and the Director-General shall in writing notify the applicant concerned of any such condition.
(4) No licence referred to in section 6 shall be issued to any person under the age of twenty-one years.
(5) No diamond cutting licence shall be issued —

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- (a) to a producer of diamonds; or
 - (b) to a dealer; or
 - (c) except with the prior approval of the President-in-Council, to any person who is not a citizen of the Republic of Ciskei permanently resident in the Republic, or
 - (d) except with such approval as aforesaid, to a company in which a controlling interest is held by a person referred to in paragraph (c), or
 - (e) except with such approval as aforesaid, to any partnership or other association of persons in which a person referred to in paragraph (c) holds an interest by virtue of which he is entitled to more than half of the profits of such partnership or other association of persons.
- (6) The Minister may grant an application for a temporary licence and authorize the issue thereof for such period, not exceeding one year and subject to such conditions as he may deem fit.
- (7) (a) Whenever an application for a new licence has been granted by the Minister in terms of this section, the Director-General shall on payment by the applicant of the appropriate fee prescribed by section 10 make out a licence in the prescribed form in triplicate.
- (b) The original of the licence shall be delivered to the applicant and the duplicate copy thereof shall be transmitted to the chief of the diamond branch for his information.

Duration of licence.

9. A new licence shall be issued and an existing licence shall be renewed in respect of a calendar year or a lesser period, subject, in the latter case, to expiration at the end of a quarter: Provided that every licence shall remain in force for a period of fourteen days as from the date on which the period expired in respect of which it has been issued or renewed and, if an application for renewal of such licence is received within such period of fourteen days, for such further period as may elapse from the date of such application to the date on which the application is granted or refused, as the case may be.

Fees payable in respect of licences.

10. The following fees shall be payable to the department in respect of licences:
- (a) Diamond cutting licence : four hundred rand per annum or one hundred rand per quarter;
 - (b) Diamond research licence : twenty rand per annum or five rand per quarter;
 - (c) Diamond tool-making licence or diamond repair licence : two hundred rand per annum or fifty rand per quarter.

Issue of licence to a company, partnership or other association of persons.

11. (1) In the case of any company, partnership or other association of persons the licence shall subject to the provisions of subsections (4) and (5) of section 8, be issued to such company, partnership or other association of persons in the name of one or more natural persons nominated by that company, partnership or other association of persons and approved by the Minister.
- (2) If such natural person ceases, or where there are more than one such person, all such persons cease to be associated with the licensee, the licensee shall forthwith apply to the Minister for the name or names of a new nominee or new nominees to be substituted for that of the former nominee or nominees, and on such application being made the Minister may, if he considers the new nominee or nominees suitable, authorise the Director-General to substitute in the licence the name or names of the new nominee or nominees for that of the former nominee or nominees.
- (3) If the Minister is satisfied after proper investigation that a person nominated in terms of subsection (1) or (2) is not a suitable person to be concerned in the cutting or handling of diamonds, he may reject such nomination and may require a new nomination to be made.
- (4) If the substitution of the name of a new nominee is not authorized as provided in subsection (2) within three months after the date on which a former nominee or the last of several former nominees ceased to be associated with the licensee concerned, the licence shall lapse unless the Minister otherwise directs.
- (5) Any licensee who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence.

Transfer of licence.

12. (1) Subject to the provisions of subsection (4) a licence issued under this Act shall not be transferable and no licensee shall sell or in any other manner alienate or hypothecate any right under such a licence except with the written approval of the Minister.
- (2) If —
- (a) the licensee is a company and any other person acquires a controlling interest in that company, or
 - (b) the licensee is a partnership or any other association of persons and a change occurs in the membership of such partnership or other association of persons,
- the licence in question shall forthwith lapse and shall be surrendered to the Director-General by the licensee for cancellation unless the licensee has by written application submitted to the Minister before the date on which a change referred to in paragraph (a) or (b) comes into operation, approved of such change : Provided that the Minister may, if he is satisfied that failure by the licensee to submit such application timeously was due to circumstances beyond the control of the licensee, condone such failure and approve of such change.

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- (3) A licensee who fails to surrender his licence when required to do so in terms of the provisions of subsection (2) shall be guilty of an offence.
- (4) If during the currency of a diamond cutting licence issued to a licensee other than a company, partnership or other association of persons, the licensee is, for any reason deemed sufficient by the Minister, unable personally to carry on or to supervise the diamond polishing in respect of which the licence was issued, such licence shall lapse unless the Minister has, on application by the licensee, authorized, by endorsement on the licence, any other natural person whom the Minister deems fit, to carry on such diamond polishing for the expired term of such licence or for any lesser period.
- (5) Any such person to whom a licence has been transferred in terms of subsection (4) shall for the purposes of this Act be deemed to be the licensee for the unexpired term of such licence or for such lesser period, as the case may be.

Renewal of licence.

- 13. (1) A licence, excluding a temporary licence referred to in section 8, shall on expiration of the period in respect of which it was issued, be renewed by the Minister if the licensee —
 - (a) within fourteen days as from the date of such expiration applies to the Minister in the prescribed form for such renewal;
 - (b) pays to the department the appropriate fee prescribed by section 10; and
 - (c) satisfies the Minister, if so requested by the Minister, that he is actively carrying on the activity in respect of which the licence was issued.
- (2) When authorizing the renewal of a licence under subsection (1) the Minister may direct that the licence in question be renewed subject to such conditions as the Minister may deem fit, either in addition to or in substitution for any conditions previously imposed in respect of that licence or that any condition so previously imposed be cancelled or varied.
- (3) If a licence has lapsed by virtue of the provisions of section 9 the person to whom such licence was issued shall, not later than fourteen days as from the date on which it so lapsed, surrender such licence to the Director-General for cancellation.
- (4) Any person who contravenes or fails to comply with the provisions of subsection (3) shall be guilty of an offence.

Cancellation and suspension of licence.

- 14. (1) A licence may be cancelled or may be suspended for a specified period by the Minister if the Minister is satisfied, after proper investigation, that the licensee —
 - (a) is, or was at any time either before or after the commencement of this Act, engaged in unlawful trade or in possession of unpolished diamonds or precious metals in contravention of this Act or any other law, or is suspected of assisting or of having assisted in such trade;
 - (b) is or has been engaged in unlawful trade in any dependence-producing substance as defined in section 1 of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act 41 of 1971);
 - (c) has been convicted of an offence and sentenced to a term of imprisonment exceeding fourteen days without the option of a fine or to a fine exceeding one hundred rand, whether or not such sentence is suspended, and that such conviction renders the licensee unfit to carry on the activity authorized by the licence issued to such licensee;
 - (d) has failed or is unable to comply with any of the provisions of this Act;
 - (e) has failed to comply with any condition imposed in respect of the licence issued to such licensee;
 - (f) has, in an application for a new licence or for a renewal of a licence, furnished false information knowing that such information is false; or
 - (g) holds the licence, in the case of a licence issued to any company, partnership or other association of persons, in the name of a person who subsequent to the issue of that licence became subject to any of the disqualifications mentioned in the preceding paragraphs.
- (2) Any licence which has been cancelled or suspended by the Minister in terms of any provision of subsection (1) shall be returned by the person to whom it was issued to the Director-General within seven days after the Director-General has in writing requested its return and, in the case where such licence has been suspended, it shall be held in safe-keeping by the Director-General during the period of suspension.
- (3) Any person who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence.

Provisions regarding the licensed premises.

- 15. (1) (a) No licensee shall carry on diamond polishing or diamond repair work elsewhere than on premises approved by the Minister after consultation with the chief of the diamond branch and described in the licence issued to him or on any premises of which the address has been endorsed on such licence under the provisions of subsection (2).
- (b) Any licensee who contravenes or fails to comply with any provisions of paragraph (a) shall be guilty of an offence.
- (2) If the removal or extension of a licensee's place of business or work to premises other than those approved by the Minister and described in his licence in terms of subsection (1) becomes necessary, the Minister may, on

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the application of the licensee, authorize such removal or extension to other premises approved by the Minister after consultation with the chief of the diamond branch and direct the Director-General to endorse on the licence the address at which such other premises are situated.

- (3) Every licensee shall affix and keep affixed in some conspicuous place on the outside of and over or by the side of the outer door of the approved premises his full name or, in the case of a licensee which is a company, partnership or any other association of persons, its name, style or title, and after such name, style or title a description indicating that the licensee is a licensed diamond cutter, diamond research worker, diamond tool-maker or diamond repairer, as the case may be.
- (4) Such name, style or title and such description shall be so affixed in printed capital letters at least five centimetres in height and plainly visible and legible.
- (5) A licensee who contravenes or fails to comply with any provision of subsection (3) or (4) shall be guilty of an offence.

Acquisition of unpolished diamonds by licensee.

16. (1) Any licensee who buys or in any other manner acquires or receives any unpolished diamond —
 - (a) for a purpose other than the activity authorized by the licence issued to him, or
 - (b) from any person who is not in lawful possession of such diamond,shall be guilty of an offence.
- (2) No licensee shall in any way receive or acquire any unpolished diamond elsewhere than on his approved premises, or in or upon the approved office or business premises, as contemplated in the Precious Stones Act 1964 (Act 73 of 1964), of any producer of diamonds or any dealer or in such other place as the Minister may approve or as may be prescribed.
- (3) Save as is otherwise prescribed, no licensee shall keep any unpolished diamond elsewhere than on his approved premises or in a safe deposit vault maintained by a bank referred to in the definition of "banker" in section 1 of the Precious Stones Act, 1964 or at such other place as the Minister may approve.
- (4) A licensee who contravenes or fails to comply with any provision of subsection (2) or (3) shall be guilty of an offence.

Prohibited interests.

17. Any holder of a diamond cutting licence or a diamond repair licence, who has any interest, direct or indirect, in the business of a dealer or who permits any dealer to have any interest, direct or indirect, in his business or establishment, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred and fifty rand for every day on which the offence continues.

Notes of sale, purchase, delivery and receipt.

18. (1) Whenever a licensee purchases or receives any unpolished diamond for alteration on his own behalf or on behalf of any other person, he shall complete a note of sale and purchase or of delivery and receipt, as the circumstances may require, in the prescribed form.
- (2) The licensee shall retain such note in his place of business for a period of at least one year after the date on which he has returned or otherwise disposed of the last of any diamonds referred to in such note.
- (3) Any licensee who contravenes or fails to comply with any provision of this section shall be guilty of an offence.

Registration of employees.

19. (1) No licensee shall employ in diamond polishing or diamond repair any person who is not a registered employee.
- (2) (a) On application for registration made to him in the prescribed form and manner by an employee or a prospective employee, as the case may be, in diamond polishing or diamond repair, the chief of the diamond branch shall, subject to the provisions of subsection (3), issue to such employee or prospective employee a certificate of registration in the prescribed form.
- (b) Such certificate of registration shall authorize the holder thereof to perform work only for the licensee and on the premises specified therein and, if such holder leaves the service of such licensee for any reason, he shall forthwith return the certificate of registration to the chief of the diamond branch for cancellation.
- (3) The issue of such a certificate may be refused and a certificate issued under this section may be cancelled or may be suspended for a specified period by the chief of the diamond branch if the applicant for registration or the registered employee, as the case may be —
 - (a) has at any time been convicted of any offence which in the opinion of the chief of the diamond branch renders such applicant or employee unfit to be employed by a licensee in diamond polishing or diamond repair;
 - (b) is on good grounds suspected by the chief of the diamond branch, or associates with any person suspected on good grounds by the chief of the diamond branch, of contravening any law relating to the possession or disposal of unpolished diamonds or precious metals or any dependence-producing substance referred to in section 14 (1) (b) or to liquor traffic;
 - (c) is addicted to any dependence-producing substance referred to in section 14 (1) (b);
 - (d) has failed or is unable to comply with any provision of this Act with which it is his duty to comply;
 - (e) conducts or has conducted himself, or instigates or has instigated other persons to conduct themselves,

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in a manner calculated to endanger, disturb or harm the discipline or good order in the work-place of the licensee or in the diamond cutting industry in general; or

- (f) without the written authority of the licensee brings onto the licensee's approved premises polished diamonds not set in jewellery:

Provided that such applicant or registered employee shall have a right of appeal against such refusal, cancellation or suspension, as the case may be, to the Minister, whose decision on any such appeal shall be final.

- (4) If a certificate of registration is suspended under any provision of this Act, the person to whom it has been issued shall during the period of suspension be deemed not to be the holder of a certificate of registration.
- (5) When the chief of the diamond branch has under subsection (3) cancelled or suspended a certificate of registration, he shall forthwith and in writing notify the Minister as well as the employer of the employee concerned of such cancellation or suspension.
- (6) Subject to the proviso to subsection (3), every person whose certificate of registration has been cancelled or suspended in terms of this section shall, within seven days after being requested in writing by the chief of the diamond branch to do so, hand in such certificate of registration at an office of the Ciskeian Police designated by the said chief, and any person who fails to comply with the provisions of this subsection or subsection (2) (b) shall be guilty of an offence.
- (7) Any licensee who —
 - (a) contravenes or fails to comply with the provisions of subsection (1), or
 - (b) employs in diamond polishing or diamond repair any person whose certificate of registration has been cancelled in terms of this section, or
 - (c) employs in diamond polishing or diamond repair any person whose certificate of registration has been suspended, during the period of such suspension, shall be guilty of an offence.

Export, sale, delivery or disposal of diamonds which are not polished diamonds.

20. (1) No licensee shall export, sell, deliver or dispose of diamonds which are not polished diamonds (other than such diamonds set in tools or implements or crushed or altered under authority of a diamond tool-making licence):
Provided that a licensee may —
 - (a) under the authority of a permit in the prescribed form issued by the chief of the diamond branch —
 - (i) sell, deliver or dispose of such diamonds to another licensee; or
 - (ii) export fragments, crushed diamonds or diamond dust resulting from the diamond polishing or diamond repair performed under the licence issued to him on obtaining in respect of such fragments, crushed diamonds or diamond dust a certificate of valuation by a person authorized by the Minister to issue such a certificate;
 - (b) under the authority of a permit in the prescribed form issued by the Minister, sell, deliver or dispose of such diamonds to a dealer or export such diamonds, on obtaining from the person authorized by the Minister to issue such a certificate and furnishing to the Minister a certificate of valuation in respect of such diamonds.
- (2) All fragments, crushed diamonds and diamond dust referred to in paragraph (a) (ii) of subsection (1) —
 - (a) shall be deemed to be diamonds for the purposes of any law relating to the payment of export duty on unpolished diamonds; and
 - (b) shall be packed and sealed for export in the prescribed manner.
- (3) If in connection with the export of diamonds the question arises whether a diamond is a partly manufactured diamond the Minister's decision on such question shall be final.
- (4) Any licensee who contravenes or fails to comply with any provision of this section shall be guilty of an offence.

Unauthorized erection or operation of machinery.

21. (1) Any person, other than a licensee or a registered employee acting in the course of his employment with a licensee, who erects or operates any machine designed or adapted for diamond polishing, and any licensee who erects or operates any such machine on premises other than the approved premises, without having obtained, subject to the provisions of subsection (2), written permission from the Minister to do so, shall be guilty of an offence.
- (2) The Minister shall grant permission in terms of subsection (1) only after consultation with the chief of the diamond branch.
- (3) When granting permission in terms of subsection (1) the Minister may impose such conditions as he may deem fit.

Offences involving certain misrepresentations.

22. Any person —
 - (a) who knowingly makes a false statement or a misrepresentation or conceals any fact of material importance with intent to obtain for himself, or to assist any other person to obtain, a licence, certificate of registration or any other document or advantage under this Act,

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- (b) who forges, or with intent to deceive, alters, any licence, certificate of registration or any other document or any record for which provision was made in the previous Act or is made in this Act, or which was issued under the previous Act or this Act, or
- (c) not being a licensed diamond cutter, who —
 - (i) by word, conduct or demeanour pretends that he is a licensed diamond cutter, or
 - (ii) uses or in any manner publishes any name, style, title, description or advertisement indicating or conveying or purporting to indicate or to convey or calculated or likely to lead other persons to believe or infer that he is a licensed diamond cutter,

shall be guilty of an offence and liable on conviction to any penalty which may in law be imposed on a conviction of fraud.

Penalties.

23. Any person who is convicted of an offence in terms of this Act shall, if no penalty is expressly prescribed for such offence, be liable —
- (a) in the case of an offence referred to in section 3 (2), 11 (5), 12 (3), 13 (4), 14 (3), 15 (5), 18 (3) or 19 (6), to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months;
 - (b) in the case of an offence referred to in section 2 (6) or 19 (7), to a fine not exceeding one thousand rand;
 - (c) in the case of an offence referred to in section 16 (4), to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to such imprisonment without the option of a fine or to both such fine and such imprisonment; and
 - (d) in the case of an offence referred to in section 5 (3), 15 (1) (b), 16 (1), 20 (4) or 21 (1), to a fine not exceeding ten thousand rand or to imprisonment for a period not exceeding ten years or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

Regulations.

24. (1) The Minister may, subject to the provisions of subsection (2), make regulations —
- (a) prescribing the forms of licences;
 - (b) prescribing the form of any application to be made under this Act;
 - (c) prescribing the form of any notice to be issued under this Act;
 - (d) prescribing the form of any endorsement to be made on a licence under this Act;
 - (e) relating to the form of and conditions attaching to any certificate, permit, permission or authorization provided for in this Act;
 - (f) relating to any matter incidental to the cancellation or suspension of a licence or certificate of registration;
 - (g) prescribing the records to be kept and the returns to be furnished by licensees;
 - (h) providing for the furnishing of such other returns and information as may be deemed necessary or expedient for the purposes of this Act;
 - (i) for the maintenance of discipline and good order in and the well being of the diamond cutting industry;
 - (j) prescribing requirements to be complied with by a licensee in performing the activity authorized by his licence;
 - (k) prescribing the procedure to be followed and the requirements to be complied with in connection with the export of polished diamonds and the degree to which diamonds intended for export shall be polished;
 - (l) providing for the valuation of polished diamonds intended for export;
 - (m) relating to any matter which by this Act is required or permitted to be prescribed by regulation; and
 - (n) generally, relating to any matter which he considers it necessary or expedient to prescribe in order to achieve the purposes of this Act, the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs.
- (2) Regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of two thousand rand or imprisonment for a period of one year.

Repeal of previous Act and savings.

25. (1) Subject to the provisions of this section, the Diamond Cutting Act, 1979 is hereby repealed.
- (2) Anything done in pursuance of powers conferred on any authority by or by virtue of any provision of the previous Act shall be deemed to have been done by the appropriate authority in pursuance of powers conferred by or by virtue of the corresponding provision of this Act.
- (3) Until the Minister makes regulations under section 24 the regulations in force under the previous Act (hereinafter referred to as the existing regulations) shall, in so far as the existing regulations can be applied and are not inconsistent with the provisions of this Act, continue to apply: Provided that, whenever the Minister makes regulations with regard to any matter contemplated in section 24, the existing regulations relating to such matter shall be deemed to have been withdrawn.

Short title and commencement.

26. This Act shall be called the Diamond Cutting Act, 1985 and shall be deemed to have come into operation on 1 March 1985.