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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 662.

3 April 1991

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3 April 1991

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 10 of 1991: Diamonds Amendment Act, 1991.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 10 van 1991: Wysigingswet op Diamante, 1991.

Act No. 10, 1991

DIAMONDS AMENDMENT ACT, 1991

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Diamonds Act, 1986, so as to amend the definition of "Minister"; to effect certain adjustments consequent upon the repeal of the Precious Stones Act, 1964, by the Minerals Act, 1991; to confer wider powers on the Minister in respect of the compilation of the South African Diamond Board; to make other provision in regard to the remuneration of members of the Board and of executive and other committees; to further regulate the conditions of service of employees of the Board; to delete the provision in terms of which Parliament appropriates money to enable the Board to perform its functions; to provide for the searching of persons, vehicles, vessels, aircraft or other articles; to make other provision in connection with the penalties that may be imposed for certain offences, and to increase the amounts of fines; and to provide that a levy may be imposed on certain persons only if the majority of certain members of the Board supports the levy; and to provide for matters incidental thereto.

(Afrikaans text signed by the State President.)
(Assented to 18 March 1991.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 56 of 1986, as amended by section 1 of Act 28 of 1988 and section 1 of Act 22 of 1989

1. Section 1 of the Diamonds Act, 1986 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of "Minister" of the following definition:
- "Minister" means the Minister of **[Economic Affairs and Technology]** Mineral and Energy Affairs and Public Enterprises;"; and
- (b) by the substitution for the definition of "producer" of the following definition:
- "producer" means any person who is in terms of the **[Precious Stones Act, 1964 (Act No. 73 of 1964)] Minerals Act, 1991**, entitled to win or recover diamonds;".

Substitution of section 2 of Act 56 of 1986

2. The following section is hereby substituted for section 2 of the principal Act:

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“Provisions of this Act may be applied in respect of other minerals

2. The Minister may by notice in the *Gazette* declare that a provision of this Act shall apply in respect of any other substance referred to in the definition of **["precious stones"]** “mineral” in section 1 of the **[Precious Stones Act, 1964 (Act No. 73 of 1964)]** Minerals Act, 1991.”

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Amendment of section 5 of Act 56 of 1986, as amended by section 2 of Act 22 of 1989**3. Section 5 of the principal Act is hereby amended—**

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 “(a) one officer of the Department of Mineral and Energy Affairs **[whom the Minister shall designate as chairman of the Board];**” 10
- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
 “(d) one officer of the Department of Trade and Industry nominated by the Minister of Trade and Industry and Tourism;” 15
- (c) by the substitution for paragraph (k) of subsection (1) of the following paragraph:
 “(k) **[two other persons who in the opinion of the Minister are able to assist the Board in achieving its objects] one [of whom shall have been] person nominated by the Jewellery Council of South Africa;**” 20
- (d) by the addition of the following paragraph to subsection (1):
 “(m) so many other persons as the Minister may deem necessary and who in his opinion are able to assist the Board in achieving its objects.”;
- (e) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
 “(a) In order to appoint a person referred to in paragraph (e), (g), (h), (i), **[or] (j) or (k)** of subsection (1), the Director-General: Mineral and Energy Affairs shall in writing request the body or bodies concerned to submit to him within 30 days after the date of the request the name of a nominated person.”; and 30
- (f) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:
 “(4) The Minister **[shall] may**, having regard to the applicable provisions of this section, appoint for every member of the Board **[excluding a member referred to in subsection (1) (d), (k) or (l)]** an alternate member. 35
 (5) The Minister shall appoint a member of the Board as chairman and another member as vice-chairman of the Board.
 (6) The vice-chairman shall act as chairman of the Board whenever the chairman is for any reason absent or unable to act as chairman.”

Substitution of section 12 of Act 56 of 1986, as substituted by section 3 of Act 22 of 1989 40**4. The following section is hereby substituted for section 12 of the principal Act:****“Remuneration of members of Board and of executive and other committees**

12. A member or an alternate member of the Board or a member of the executive or any other committee of the Board who is not in the full-time employment of the State or the Board may be paid out of the funds of the Board such remuneration and allowances as the Minister may **[with the concurrence of the Minister of Finance]** determine.” 45

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Amendment of section 14 of Act 56 of 1986, as amended by section 4 of Act 22 of 1989

5. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The work incidental to the performance of the functions of the Board shall, subject to the directions of the Board, be performed by an executive officer appointed by the Minister after consultation with the Board on such conditions of service and at such remuneration and service benefits as the Minister may **[with the concurrence of the Minister of Finance]** determine, and the executive officer shall be assisted in the performance of his functions by—
- (a) persons appointed by the Board on such conditions of service and at such remuneration, allowances, bonuses, subsidies, pension and other service benefits as the **[Minister]** Board may, after having obtained such professional advice as it may deem fit, with the concurrence of the Minister **[of Finance]** determine; and
- (b) officers or employees placed at the disposal of the Board under section 14 (3) (a) of the Public Service Act, 1984 (Act No. 111 of 1984).”.

Amendment of section 16 of Act 56 of 1986

6. Section 16 of the principal Act is hereby amended—

- (a) by the deletion of paragraph (b) of subsection (1); and
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) The Board may invest any money received in terms of subsection (1) and not required for immediate use with the Public Investment Commissioners or such other institution as the Minister may **[with the concurrence of the Minister of Finance]** determine.”.

Amendment of section 18 of Act 56 of 1986

7. Section 18 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) he is a producer who has won or recovered that diamond from **[the sea or from land or debris]** a mine as defined in section 1 of the Minerals Act, 1991, in accordance with any licence, permit, lease or other authority granted to him under the **[Precious Stones Act, 1964 (Act No. 73 of 1964)]** Minerals Act, 1991, or which remains in force under section 47 of the said Act;”.

Amendment of section 25 of Act 56 of 1986

8. Section 25 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Any person who by chance finds or picks up any unpolished diamond at any place where he or his employer is not permitted to prospect, dig or mine for diamonds in terms of the **[Precious Stones Act, 1964 (Act No. 73 of 1964)]** Minerals Act, 1991, shall forthwith take that diamond to the nearest police station and deliver it to the member of the South African Police on duty.”.

Insertion of section 25A in Act 56 of 1986

9. The following section is hereby inserted after section 25 of the principal Act:

“Search of persons and things

25A. (1) Any producer or licensee or any manufacturer of synthetic diamonds, or his representative, shall have the right to search or cause to be searched—

- (a) any person, whether employed in connection with the activities of such producer, licensee or manufacturer or not, on any land upon

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which or in any building in which such activities are being carried on;
and

(b) any vehicle, vessel or aircraft or any other object in the possession of
or any clothing worn by such person.

(2) A search in terms of subsection (1) may include the dismantling or
taking apart of any such vehicle, vessel, aircraft, object or clothing, and
any such search of a person shall be carried out with strict regard to
decency and, in the case of a female, be made by a female only. 5

(3) Any person 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 not
exceeding R1 000 or to imprisonment for a period not exceeding three
months, or to both such fine and such imprisonment.”. 10

Amendment of section 63 of Act 56 of 1986

10. Section 63 of the principal Act is hereby amended by the substitution for
subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph: 15

“(i) that diamond has been won or recovered in any mine **[or alluvial digging]**
as defined in section 1 of the **[Precious Stones Act, 1964 (Act No. 73 of
1964)] Minerals Act, 1991**, or in any particular portion of any such **[alluvial
digging] mine**, which at the date on which that diamond is registered for
export in terms of this Chapter has been approved by the Minister, with the
concurrence of the Minister of Finance, as any such mine **[digging]** or
portion which cannot be profitably worked or developed owing to un-
favourable economic or other circumstances, but should in the national
interest be worked or developed;” 20 25

Amendment of section 82 of Act 56 of 1986

11. Section 82 of the principal Act is hereby amended by the substitution for
paragraph (a) of the following paragraph:

“(a) contravenes a provision of section 18, 19 (1), 20, **[or] 21 or 55;**”.

Amendment of section 83 of Act 56 of 1986

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12. Section 83 of the principal Act is hereby amended by the substitution for
paragraph (b) of the following paragraph:

“(b) contravenes a provision of section 33, 35 (1), 44, 48, 50 (1) or 52 **[or 55];**”.

Amendment of section 87 of Act 56 of 1986

13. Section 87 of the principal Act is hereby amended— 35

(a) by the substitution in paragraph (a) for the expression “R50 000” of the
expression “R250 000”;

(b) by the substitution in paragraph (b) for the expression “R20 000” of the
expression “R100 000”;

(c) by the substitution in paragraph (c) for the expression “R10 000” of the
expression “R50 000”; and 40

(d) by the substitution in paragraph (d) for the expression “R5 000” of the
expression “R25 000”.

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Amendment of section 93 of Act 56 of 1986

14. Section 93 of the principal Act is hereby amended by the addition of the following words to subsection (1):

“but the Minister shall not impose such a levy unless the levy is supported by a majority of the members of the Board referred to in section 5 (1) (e), (g), (h) and (i).” 5

Short title and commencement

15. (1) This Act shall be called the Diamonds Amendment Act, 1991.

(2) Sections 1 (b), 2, 7, 8 and 9 shall come into operation on the date of repeal of the Precious Stones Act, 1964 (Act No. 73 of 1964). 10

(3) Section 10 shall come into operation on a date two years after the commencement of section 45 of the Minerals Act, 1991.