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PUBLISHED BY AUTHORITY

THE DIAMONS ACT, 2011
(Act No. 3 of 2011)



I ASSENT

MSWATI III
King of Swaziland

1st March, 2011

**AN ACT
ENTITLED**

AN ACT to implement the Kimberly Process Certification Scheme and provide for the control of production, processing, sale, purchase, import and export of diamonds and other incidental matters.

ENACTED by the King in Parliament.

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PART I PRELIMINARY PROVISIONS

Short title and Commencement

- 1. (1) This Act may be cited as the Diamonds Bill, 2011
- (2) This Act shall come into force on the date of publication.

Interpretation

- 2. In this Act, unless the context otherwise indicates -

"authorized representative" means a person authorized in terms of section 35 of this Act;

"business premises", in relation to a holder of a licence or permit, means premises of the holder of a licence or permit of which particulars of the location have been endorsed on the licence in terms of this Act;

"Commissioner" means the Commissioner of Mines appointed in terms of the Constitution Act, 2005;

"contractor" means a person with whom a producer or a holder of a licence or permit has entered into an agreement to win or recover or to prospect for diamonds on behalf of the producer or a holder of a licence or permit, but does not include an agreement of employment or an agreement with an individual for the rendering of services by that individual personally;

"controlling interest", in relation to a company, means -

- (a) direct or indirect beneficial ownership of 50 per cent or more of the issued share capital of the company by a person, acting singly or in concert with any other person; or
- (b) direct or indirect control by a person, acting singly or in concert with any other person, of 50 per cent or more of the voting power in respect of the issued shares of the company; or

- (c) the direct or indirect power by a person, acting singly or in concert with any other person, to appoint or remove the majority of the directors of the company;

"crushed diamond" means a diamond derived from a diamond which has been subjected to a process of crushing such that it has been rendered into fragments, splinters or particles, but does not include diamond powder;

"country of origin" means the country where a shipment of rough diamonds has been mined or extracted;

"cutter" means a holder of a diamond cutting licence;

"Exporting Authority" means the authority or body designed by a Participant from whose territory a shipment of rough diamonds is leaving and which are authorized to validate the Kimberly Process Certificate;

"dealer" means a holder of a diamond dealer's licence;

"diamond Valuator" means a person who holds a degree in gemology and appointed as such in terms of this Act;

"diamond" means a natural mineral consisting essentially of pure crystallized carbon in the isometric system with a hardness on the Mohs (scratch) scale of 10, a specific gravity of proximately 3.52 and a refractive index of 2.42;

"diamond inspector" means a diamond inspector designated as such under this Act;

"diamond powder" means a powder derived from a diamond which has been subjected to a process of polishing or crushing;

"diamondiferous concentrate" means the end product of the treatment process of diamond bearing host rock or sediment through a heavy mineral concentration system, prior to removal of the diamonds by X-ray, hand sorting or other means;

"fragment" means a part of a diamond separated from the main stone in the course of diamond cutting and of so irregular a shape and small a size as to be unsuitable for cutting;

"Importing Authority" means the authority or body designed by a participant into whose territory a shipment of rough diamonds is imported to conduct all import formalities and particularly the verification of a accompanying Kimberly Process Certificates;

"Kimberley Process" means the international certification arrangement for rough diamonds adopted under the Interlaken Declaration;

"Kimberley Process Certificate" means a certificate issued under section 19 of this Act

"licence" means a diamond dealer's licence, diamond cutting licence, diamond tool-making licence or diamond research licence under this Act;

"holder of a licence" means a dealer, cutter, tool-maker or researcher;

"Minister" means the Minister responsible for mines and minerals;

"parcel" means one or more diamonds that are packed together and that are not individualized;

"parcel of mixed origin" means a parcel that contains rough diamonds from two or more countries of origin, mixed together;

"Participant" means a state or a regional economic integration organization for which the Certification Scheme is effective;

"permit" means a permit issued in terms of this Act;

"polished diamond" means an unset diamond, including a synthetic diamond, which has undergone various manufacturing processes resulting in a gemstone which is of acceptable cut by international standards and is marketable as a polished diamond without undergoing any further manufacturing process;

"polishing", in relation to an unpolished or polished diamond, means the sawing, cutting, cleaving or dividing in any manner, faceting or altering of that diamond;

"possess" includes keeping, storing or having in custody or under control or supervision;

"processing" in relation to rough diamonds, means polishing, sawing, cutting, setting, cleaving or dividing in any manner, faceting or altering of that diamond with the view to enhancing the value of the diamond;

"producer" means a person who is in terms of the Mines and Minerals Act, 2010 entitled to win or recover diamonds, but does not include the holder of a prospecting licence;

"prospecting" means prospecting as defined in the Mines and Minerals Act, 2010;

"prospecting licence" means an prospecting licence issued under the Mines and Minerals Act;

"researcher" means the holder of a diamond research licence;

"restricted area" means -

- (a) an area where diamond mining is carried out;
- (b) an area of land in respect of which a licence or permit has been issued under this Act;
- (c) an area in which bulk sampling for diamonds in terms of a prospecting licence or a mineral deposit retention licence is being carried out;
- (d) an installation, equipment used for mining of or prospecting for diamonds;
- (e) a place where processing of diamondiferous concentrate, or processing of gravel with the intention of recovering diamonds, takes place;
- (f) business premises; or
- (g) an area declared to be restricted by the Minister by notice in the Government Gazette;

"rough diamond" means a diamonds that are unworked or simply sawn, cleaved or bruted and fall under the Relevant Harmonised Commodity Description and Coding System 7102.10, 7102.21 and 7102.31;

"Kimberly Process Certificate" means a certificate issued under Part III of this Act;

"synthetic diamond" means a man-made diamond which has the same chemical, physical and optical properties as a natural diamond;

"tool-maker" means the holder of a diamond tool-making licence or permit contemplated in section 23 of this Act;

"unpolished diamond" means a diamond in its natural state or a synthetic diamond which has, after the production, not been altered in any manner, and includes a crushed diamond and a partly processed diamond, but does not include any unpolished diamond set for industrial purposes in any tool.

PART II CONTROL OF IMPORT AND EXPORT OF DIAMONDS

Export of rough diamonds

3. (1) A person shall not export a rough diamond without -

- (a) an export licence issued under this Act;
- (b) a Kimberley Process Certificate issued under this Act; and
- (c) a Diamond Value Certificate issued under this Act.

(2) Subsection (1) shall not apply in respect of diamondiferous concentrate or any sand, soil, clay, gravel, stone, rock or mineral, which may contain rough diamonds.

(3) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding one hundred thousand (E100, 000.00) Emalangeni or both.

Import of rough diamonds

4. (1) A person shall not import a rough diamond without an import licence issued under this Act and a Kimberley Process Certificate issued by the Exporting Authority.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding one hundred thousand (E100 000.00) Emalangeni or both.

Export or import of diamond to or from participants

5. (1) A person shall not export or import a diamond from a person who or a country of origin which is not a participant in the Kimberly Process Certification Scheme.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding one hundred thousand (E100 000.00) Emalangeni or both.

Polishing, crushing or setting of rough diamonds

6. (1) A person shall not polish, crush or set a rough diamond without a licence issued under this Act.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding one hundred thousand Emalangeni (E100, 000.00) or both.

Conveyance of rough diamonds

7. (1) A person shall not convey, by any means, a rough diamond from a restricted area to any other place without a permit or a Kimberley Process Certificate issued under this Act.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100 000.00) or both Sale, barter, purchase or receipt of rough diamonds

8. (1) A person shall not sell or barter a rough diamond unless that person is -

(a) a holder of a licence; or

(b) a holder of a permit; or

(c) an authorized representative of a person referred to in paragraph

(a) or (b) and acting within the scope of duty as an authorized representative.

(2) A person shall not receive or purchase a rough diamond unless that person is -

(a) a holder of a licence; or

(b) a holder of a permit; or

(c) an authorized representative of a person referred to in paragraph

(a) or (b) and acting within the scope of duty as an authorized representative.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Import and export of polished diamonds

9. (1) A person shall not import or export a cut or polished diamond which is not set into jewellery, tool or implement unless -

(a) such diamond has been exhibited and sealed for export in the presence of the Commissioner in the prescribed manner; and

(b) a satisfactory statement of account of the possession of the diamond is submitted to the Commissioner; and

(c) that person holds an import and export licence.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Approval of business premises

10. (1) A person who intends to apply for a licence or permit under this Act in respect of which such licence or permit require business premises shall first request the Commissioner for approval of the business premises.

(2) The Commissioner may approve or disapprove the utilization of business premises for an activity the applicant seeks conduct under a licence or permit.

Processing, research and tests of diamonds

11. (1) A cutter, tool-maker or holder of a permit shall not polish or crush a diamond or set a rough diamond in a tool, implement or other article or permit any such process to be conducted elsewhere other than on -

- (a) the approved business premises; or
- (b) such other premises as the Commissioner may approve on application in writing by such cutter, tool-maker or holder of a permit.

(2) A researcher shall not conduct analysis or tests in connection with a rough diamond or permit research or tests to be conducted on behalf of a researcher, elsewhere than on -

- (a) the premises of the researcher; or
- (b) such other premises as the Commissioner may approve on application in writing by the researcher.

(3) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Valuing and sealing of rough diamonds

12. (1) A holder of a licence or permit shall not dispatch or sell a rough diamond to a processor, cutter, tool-maker, researcher or holder of a permit or to an authorized representative of such person unless that diamond is valued and sealed in a tamper resistant container.

(2) The market value of a rough diamond shall be determined by the Diamond Valuator taking into account -

- (a) the value agreed upon between the seller and the buyer; and
- (b) international market prices for such diamonds, at the time of the sale.

(3) The rough diamond after evaluation in terms of this Act, shall and before being released for sale or disposal, be packed in a parcel and sealed in tamper resistant container in a manner prescribed under this Act.

(4) A holder of a licence or authorized person who otherwise disposes of a rough diamond shall deliver and the person who receives or purchases that diamond shall take delivery of the diamond in a parcel sealed as prescribed under this Act.

(5) Where the sale or disposal of a rough diamond contained in a sealed parcel referred to in subsection (3) is subsequently cancelled or rescinded, the sealed parcel shall be returned to the holder of a licence or authorized person.

(6) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Records of diamond transactions

13. (1) A producer, contractor, sub-contractor, holder of a diamond prospecting licence, holder of a permit or holder of a licence under this Act shall, at the approved business premises, keep or cause to be kept a register, in which shall be entered particulars in respect of the rough diamonds.

(2) A holder of a diamond prospecting licence or a holder of a permit under this Act shall keep or cause to be kept the register from such time as the holder of a licence has first won, recovered or found rough diamonds in accordance with the terms and conditions of the licence or permit.

(3) An entry referred to in subsection (1) shall be made within twenty four (24) hours after the occurrence of the event.

(4) A person required to keep a register in terms of subsection (1) shall, within fourteen (14) days after the end of each month, transmit or deliver to the Commissioner a true copy of such register kept in respect of that month and a solemn declaration in writing of the truth and correctness of the record.

(5) A person required to keep a register in terms of subsection (1) shall retain such register for a period of at least five (5) years after the date on which the last entry was recorded.

(6) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Security check of persons employed or engaged in diamond activities

14. (1) A holder of licence or permit under this Act shall not permit an employee or another person to engage in an activity or operation of or on behalf of such holder of a licence or permit which is related to diamond activity unless -

- (a) such holder of a licence or permit has performed a security check on such employee or other person; and
- (b) the results of such security check indicate that such employee or other person is suitable to be engaged in such activity or operation.

(2) If at any time an employee or another person referred to in subsection (1) has, pursuant to a security check referred to in subsection (1) (a) become unsuitable to be engaged, the holder of a licence or permit on whose behalf such activity or operation is being carried out, shall ensure that such employee or other person stops the engagement.

(3) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100 000.00) or both.

Restricted areas

15. (1) A person shall not enter a restricted area unless that person is -

- (a) a member of the Royal Swaziland Police Service;
- (b) an Inspector of Mines;
- (c) the Commissioner;
- (d) a Diamond Valuator;
- (e) a Labour Inspector; or
- (f) a staff member or public officer authorized by the Commissioner in writing, to enter, reside, travel or work at the restricted area.

(3) A person who intends to enter a restricted area shall apply to the Commissioner for a pennit to do so.

(4) A pennit shall specify the restricted area, or part thereof, for which it is granted.

(5) A restricted area shall be demarcated by the display of adequate signs to be a restricted area.

(6) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Diamonds found or picked up by chance

16. (1) A person who finds or picks up a diamond at any place, shall forthwith deliver that diamond to the Commissioner of Police or to the nearest police service Station Commander or Commissioner of Mines who shall keep it in a safe place.

(2) The Commissioner of Police or Station Commander shall within twenty-four hours upon receipt of the diamond deliver the diamond to the Commissioner of Mines who shall within twenty-four hours cause the found or picked up diamond to be tested for authenticity.

(3) A person who claims ownership of the found diamond shall produce proof of ownership to the Commissioner of Mines and the Commissioner of Police.

(4) Where the Commissioner of Mines and the Commissioner of Police -

- (a) are satisfied that a person is the owner of the diamond referred to in subsection (1) or is entitled to be in possession of the diamond, the Commissioner of Police shall deliver that diamond to such person; or
- (b) are not satisfied, the Commissioner of Police shall cause a notice to be published in the Gazette and in the newspapers circulating in Swaziland calling upon any person who may be the owner of that diamond or entitled to be in possession to prove ownership or right of possession.

(5) Where no proof to the satisfaction of the Commissioner of Mines and the Commissioner of Police of the ownership or right of possession is furnished within twenty-one (21) days after the date of publication of the two notices referred to in subsection (4)(b), the diamond in question shall be forfeited to the State.

(6) Where the State is satisfied that the diamond found or picked up in the circumstances contemplated in subsection (1), the State may reward the person who found or picked up that diamond.

(7) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

PART III **KIMBERLY PROCESS CERTIFICATION**

Exporting and Importing Authority

17. (1) The Commissioner of Mines shall designate a unit in the Office of the Commissioner of Mines as the Exporting and Importing Authority.

(2) The Authority shall be composed of a Diamond Valuator and other officers as the Commissioner may consider necessary.

Functions of the Exporting and Importing Authority

18. The Exporting and Importing Unit shall be responsible for -

- (a) processing a Kimberly Process Certificate;
- (b) validating and issuing a Kimberly Process Certificate;
- (c) liaising with Importing Authorities of other countries;
- (d) inspecting rough diamonds shipments or consignments before export;
- (e) inspecting and opening contents of shipments or consignments upon delivery; and
- (f) any other duty as may be assigned by the Commissioner in respect of import and export of diamonds.

Application for a Kimberly Process Certificate

19. (1) An application for a Kimberly Process Certificate for the export of rough diamonds shall be made to the Commissioner in the manner prescribed under this Act.

(2) An application for a Kimberly Process Certificate shall be accompanied by a valid licence or permit to possess rough diamonds.

Contents Kimberly Process Certificate

20. (1) A Kimberly Process Certificate for the export of rough diamonds shall be designed by the Commissioner and shall be -

- (a) in the English language;

- (b) tamper and forgery resistant; and
- (c) in a manner prescribed by the Commissioner under this Act.

Kimberley Process Certificate Signatories

21. The signatories to the Kimberley Process Certificate shall be the -

- (a) Governor of the Central Bank;
- (b) Commissioner General of the Swaziland Revenue Authority; and
- (c) Commissioner of Mines.

Duration of Kimberley Process Certificate

22. (1) A Kimberley Process Certificate for the export or import of a rough diamonds shall be valid for sixty (60) days from date of issue.

**PART IV
LICENSING**

Kinds of licences or permits

23. The kinds of licences or permits that may be granted under this Act are licences or permits to authorizing the holder to -

- (a) possess rough diamond;
- (b) sell or dispose of rough diamond which is in the lawful possession of that person;
- (c) receive or purchase rough diamond which is in the lawful possession of a person from whom it is to be received or purchased;
- (d) export rough diamond;
- (e) import rough diamond;
- (f) polish rough diamond or crush or cut or set a rough diamond in a tool, implement or other article;
- (g) possess diamondiferous concentrate outside a restricted area;
- (h) export diamondiferous concentrate;
- (i) remove sand, soil, clay, gravel, stone, rock or mineral from a restricted area;
- (j) export sand, soil, clay, gravel, stone, rock or mineral which it is reasonably believed may contain diamonds;
- (k) enter, reside, travel, work or be in, or to visit a restricted area, subject to a condition contained in such permit;
- (l) convey rough diamond from one place to another;

Application for a licence

24. (1) An application for a licence or permit under section 23 shall be made to the iNgwenyama in terms of the Mines and Minerals law in force and in the manner prescribed.

(2) The iNgwenyama shall not grant an application unless -

- (a) the business premises upon which the activities for the intended licence are approved by the Commissioner; and
- (b) the applicant meets the requirement for the intended licence or permit as prescribed for a holder of a licence or permit under this Act and the Mines and Minerals law.

Duration of licence

25. (1) A licence granted under this Act shall be valid for one year and may be renewed.

(2) An application for the renewal of a licence shall be made within three months before the date on which such licence expires.

Transfer of licence

26. (1) The Commissioner may, on application by the holder of a licence or pennit, authorize by endorsement on the licence or pennit any person who is able to carry on such diamond operations for the remaining tenn of such licence or for any lesser period.

(2) A person to whom a licence or pennit has been transferred in tenus of sub-section (1) shall furnish a fresh recognizance in the prescribed manner.

(3) A person to whom a licence or pennit has been transferred in tenus of sub-section (1) shall for the purposes of this Act be the holder of a licence or pennit for the remaining tenn of the licence, or for such lesser period.

Cancellation, suspension of licence

27. (1) The Commissioner may cancel a licence or permit forthwith, suspend a licence for a specified period or refuse to renew a licence or pennit.

(2) A licence shall not be cancelled, suspended, renewed, refused unless the Commissioner is satisfied that the holder of a licence or pennit -

- (a) is or has at any time either before or after the commencement of this Act been engaged in illicit trade in diamonds or other precious stones in contravention of this Act or any other law relating to precious stones whether in Swaziland or elsewhere, or is suspected of assisting or having assisted in such trade either in Swaziland or elsewhere;
- (b) has been convicted of any offence of which dishonesty is an element and sentenced to a tenn of imprisonment exceeding six months without the option of a fine or to a fine exceeding Emalangeni five thousand (E5,000) or its equivalent whether in Swaziland or elsewhere, if such conviction in the opinion of the Commissioner renders the holder of a licence or pennit unfit to carry on the diamond operation authorized by the licence issued to the holder of a licence or pennit;
- (c) has failed or is unable to comply with any of the provisions of this Act; or

- (d) has failed to comply with a condition imposed in respect of the licence issued under this Act.

Return of cancelled licence

28. (1) A holder of a licence or permit shall return the licence or permit which has been cancelled or suspended under this Act to the Commissioner within seven days after the notification of such cancellation or suspension.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding one (1) month or to a fine not exceeding Emalangeni one thousand (E1,000.00) or both.

Display of licence at business premises

29. (1) A holder of a licence or permit shall display and keep displayed in some conspicuous place on the licensed premises -

- (a) the original licence; and
- (b) a list of the persons employed in the licensed premises.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding one (1) month or to a fine not exceeding Emalangeni one thousand (E1,000.00) or both.

Approval of machinery

30. (1) A person, other than a holder of a licence or permit or an employee acting in the course of employment with such holder of a licence or permit who intends to erect or operate a machine designed or adapted for diamond cutting shall obtain written permission from the Commissioner.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding one (1) year or to a fine not exceeding Emalangeni five thousand (E5,000.00) or both.

**PART IV
MONITORING**

Inspectors

31. (1) The Commissioner may designate a competent public officer as a diamond inspector.

(2) The Commissioner may at any time revoke a designation made under subsection (1).

(3) A diamond inspector designated under subsection (1) shall be issued with an identity card.

(4) Where a Diamond Inspector exercises power or performs a duty in terms of this Act, the diamond inspector shall, at the request of the person affected, produce an identity card.

Duties of inspectors

32. (1) A diamond inspector or authorized officer may, at all reasonable times, enter upon any licensed premises for the purpose of -

- (a) inspecting the licenced premises;
- (b) ascertaining whether the provisions of this Act are complied with;
- (c) giving directions and taking steps to enforce provisions of this Act; and
- (d) obtaining such information as the diamond inspector or authorized officer may deem necessary.

(2) For the purposes of this section, "authorized officer" means a person authorized by the Commissioner in writing to conduct inspections.

Search

33. (1) A diamond inspector or police officer of appropriate rank may -

- (a) at any reasonable time enter upon and search any licensed premises and may require from the holder of a licence the production of any document or record;
- (b) inspect any document or record and make copies of and extracts from, any record required to be kept under this Act;
- (c) demand for the production of, and inspect, any diamonds in the possession or under the control of the holder of a licence; and
- (d) demand from the holder of a licence or any employee or other person in his employ for information relating to the record in subsection (1) (a) and such diamonds or any other diamonds received by the holder of a licence.

(2) A person who obstructs or hinders a diamond inspector or police officer from the performance of functions in subsection (1) commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangeni one hundred thousand (E100, 000.00) or both.

Seizure

34. A diamond inspector or police officer may seize a diamond, machinery, register, document or thing which may be used as evidence under this Act.

Registration of representatives

35. (1) A holder of a licence or permit who intends to appoint another person as an authorized representative, shall apply to the Commissioner on the prescribed form for the registration of that person.

(2) The Commissioner may conduct investigation regarding an application for registration as an authorized representative.

(3) The Commissioner may grant or refuse an application for registration as an authorized representative within 30 days from the date of receipt of the application and shall notify the applicant in writing of the decision.

(4) The Commissioner may, in granting a registration, attach terms and conditions reasonably necessary under the circumstances.

(5) The Commissioner may by notice in writing to the holder of a licence at any time -

- (a) cancel or vary any condition determined under subsection (4); or
- (b) impose any additional condition in respect of the registration of such authorized representative.

(6) Anything done by an authorized representative before the cancellation or variation of any condition under subsection (5)(a) or the imposition of any condition or further condition under subsection (5)(b), shall remain valid.

(7) An authorized representative acting within the scope of the prescribed duties shall, on request produce the certificate of registration to such person for inspection.

(8) The Commissioner may on reasonable grounds -

- (a) suspend the registration of an authorized representative for such period as the Commissioner may determine; or
- (b) cancel the registration of an authorized representative with effect from such date as the Commissioner may determine; and
- (c) the reasons for such suspension or cancellation shall be communicated in writing to the holder of a licence and the authorised representative.

(9) A holder of a licence or permit who has appointed a registered authorized representative shall, upon termination of such appointment, inform the Commissioner in writing of such termination.

(10) A holder of a licence or permit who terminates the appointment of an authorized representative shall, within 30 days after having ceased to be such, return the certificate of registration to the Commissioner.

(11) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding six (6) months or to a fine not exceeding Emalangenzi five thousand (E5,000.00) or both.

PART V MISCELLANEOUS

Non-disclosure of information by an employee

36. (1) An employee shall not disclose information or record or document to a person other than a person who is authorized under this Act.

(2) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for a period not exceeding ten (10) years or to a fine not exceeding Emalangenzi one hundred thousand (E100 000.00) or both.

Preference of purchase of goods and services

37. (1) A holder of a licence shall, in the conduct of the operations under the licence, and in the purchase, construction and installation of facilities, give preference, to the maximum extent possible consistent with safety, quality, efficiency and economy, to -

- (a) materials and products made in Swaziland; and
- (b) service agencies located in Swaziland and owned by Swazi citizens or bodies corporate registered under the Companies Act.

(2) A holder of a licence shall, in the operations under the licence, conduct training programs in consultation with the Commissioner for the benefit of employees that they may qualify for advancement.

(3) The Commissioner may suspend or cancel a licence issued under this Act where there is reasonable proof that the holder of a licence does not comply with the provisions of this section.

False statements

38. A person who makes a statement knowing it to be false or causes to be made a statement, which is false commits an offence and shall on conviction be liable to imprisonment to a term not exceeding one (1) year or a [fine not exceeding Emalangeni ten thousand (E10, 000.00) or both.

Falsifying records

39. A person who knowingly makes or causes to be made or connives at the making of a false entry in a record required to be kept under this Act or who prevents the making of a correct entry therein commits an offence and shall on conviction be liable to imprisonment to a term not exceeding one (1) year or a [fine not exceeding Emalangeni ten thousand (E10, 000.00) or both.

Indemnity of officers

40. A public officer or any other authorized officer shall not be held personally liable for anything done or omitted to be done in good faith in the performance of duties under this Act.

Regulations

41. The Minister may make regulations for carrying into effect of this Act and may provide for -

- (a) the maintenance of discipline and the good order and well-being of the diamond industry;
- (b) the type of licence or permit;
- (c) the type of an application to be made under this Act;
- (d) the type of a notice to be issued or published under this Act;
- (e) the terms and conditions attaching to any licence or permit provided for under this Act;
- (f) the nature of an endorsement to be made on a licence or permit under this Act.
- (g) the returns to be furnished by holder of a licence or permit holder;
- (h) prescribing anything which in terms of this Act is to or may be prescribed;
- (i) design and contents of a Kimberly Process Certificate; and

- (j) the terms and conditions pertaining to the Kimberley Process Certification Scheme.