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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 662.

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.

No. 662.

3 April 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:

ALGEMENE VERDUIDELIKENDE NOTA:

[**]** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Diamante, 1986, ten einde die omskrywing van "Minister" te wysig; sekere aanpassings te maak as gevolg van die herroeping van die Wet op Edelgesteentes, 1964, deur die Mineraalwet, 1991; aan die Minister wyer magte ten opsigte van die samestelling van die Suid-Afrikaanse Diamantraad te verleen; ander voorsiening te maak aangaande die besoldiging van lede van die Raad en van uitvoerende en ander komitees; die diensvoorwaardes van werknemers van die Raad verder te reël; die bepaling te skrap waarvolgens die Parlement geld bewillig ten einde die Raad in staat te stel om sy werksaamhede te verrig; voorsiening te maak vir die deursoeking van persone, voertuie, vaartuie, lugvaartuie of ander artikels; ander voorsiening te maak in verband met die strawwe wat vir sekere misdrywe opgelê kan word, en die bedrae van boetes te verhoog; en te bepaal dat 'n heffing slegs op sekere persone gelê kan word indien die meerderheid van bepaalde lede van die Raad die heffing steun; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Maart 1991.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 56 van 1986, soos gewysig deur artikel 1 van Wet 28 van 1988 en artikel 1 van Wet 22 van 1989

- 5 1. Artikel 1 van die Wet op Diamante, 1986 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
- "Minister" die Minister van **[Ekonomiese Sake en Tegnologie]** Mineraal- en
- 10 Energiesake en Openbare Ondernemings"; en
- (b) deur die omskrywing van "produsent" deur die volgende omskrywing te vervang:
- "produsent" 'n persoon wat ingevolge die **[Wet op Edelgesteentes, 1964**
- 15 **(Wet No. 73 van 1964)]** Mineraalwet, 1991, geregtig is om diamante te win of uit te haal;"

Vervanging van artikel 2 van Wet 56 van 1986

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

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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];**"

(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:

25

"(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.

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(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

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

“Bepalings van hierdie Wet kan ten opsigte van ander minerale toegepas word

2. Die Minister kan by kennisgewing in die *Staatskoerant* verklaar dat ’n bepaling van hierdie Wet ten opsigte van ’n ander stof bedoel in die omskrywing van **“edelgesteentes”** **“mineraal”** in artikel 1 van die **[Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964)]** Mineraalwet, 1991, van toepassing is.”

Wysiging van artikel 5 van Wet 56 van 1986, soos gewysig deur artikel 2 van Wet 22 van 1989

3. Artikel 5 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
- “(a) een beamppte van die Departement van Mineraal- en Energiesake **[wat die Minister as voorsitter van die Raad aanwys];**”;
- (b) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:
- “(d) een beamppte van die Departement van Handel en Nywerheid deur die Minister van Handel en Nywerheid en Toerisme benoem;”;
- (c) deur paragraaf (k) van subartikel (1) deur die volgende paragraaf te vervang:
- “(k) **[twee ander persone wat na die oordeel van die Minister in staat is om die Raad met die verwesenliking van sy oogmerke te help, van wie] een persoon** deur die Juweliersraad van Suid-Afrika benoem **[moet word];**
- (d) deur die volgende paragraaf by subartikel (1) te voeg:
- “(m) soveel ander persone as wat die Minister nodig ag en wat na sy oordeel in staat is om die Raad met die verwesenliking van sy oogmerke te help.”;
- (e) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
- “(a) Ten einde ’n persoon bedoel in paragraaf (e), (g), (h), (i), **[of] (j) of (k)** van subartikel (1) aan te stel, moet die Direkteur-generaal: Mineraal- en Energiesake die betrokke liggaam of liggame skriftelik versoek om binne 30 dae na die datum van die versoek die naam van ’n benoemde persoon aan hom voor te lê.”; en
- (f) deur subartikels (4), (5) en (6) deur onderskeidelik die volgende subartikels te vervang:
- “(4) Die Minister **[moet]** kan met inagneming van die toepaslike bepalings van hierdie artikel vir elke lid van die Raad **[uitgesonderd ’n lid in subartikel (1) (d), (k) of (l) bedoel]** ’n plaasvervangende lid aanstel.
- (5) Die Minister stel ’n lid van die Raad as voorsitter en ’n ander lid as ondervoorsitter van die Raad aan.
- (6) Die ondervoorsitter tree as voorsitter van die Raad op wanneer die voorsitter om enige rede afwesig is of nie in staat is om as voorsitter op te tree nie.”;

45 Vervanging van artikel 12 van Wet 56 van 1986, soos vervang deur artikel 3 van Wet 22 van 1989

4. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

“Besoldiging van lede van Raad en van uitvoerende en ander komitees

12. Aan ’n lid of ’n plaasvervangende lid van die Raad of ’n lid van die uitvoerende of ’n ander komitee van die Raad wat nie in die heeltidse diens van die Staat of die Raad is nie, kan uit die fondse van die Raad die besoldiging en toelaes betaal word wat die Minister **[met die instemming van die Minister van Finansies]** bepaal.”

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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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Wysiging van artikel 14 van Wet 56 van 1986, soos gewysig deur artikel 4 van Wet 22 van 1989

5. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 5 “(1) Die werk verbonde aan die verrigting van die werksaamhede van die Raad word, onderworpe aan die voorskrifte van die Raad, verrig deur ’n uitvoerende beampte wat deur die Minister na oorleg met die Raad aangestel word op die diensvoorwaardes en teen die besoldiging en diensvoordele wat die Minister **[met die instemming van die Minister van Finansies]** bepaal, en die
- 10 uitvoerende beampte word by die verrigting van sy werksaamhede bygestaan deur—
- (a) persone deur die Raad aangestel op die diensvoorwaardes en teen die **[besoldiging]** vergoeding, toelaes, bonusse, subsidies, pensioen- en ander diensvoordele wat die **[Minister]** Raad, na verkryging van die vakkundige
- 15 advies wat hy goedvind, met die instemming van die Minister **[van Finansies]** bepaal; en
- (b) beamptes of werknemers wat kragtens artikel 14 (3) (a) van die Staatsdienswet, 1984 (Wet No. 111 van 1984), tot die Raad se beskikking gestel is.”.

20 Wysiging van artikel 16 van Wet 56 van 1986

6. Artikel 16 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (1) te skrap; en
- (b) deur subartikel (4) deur die volgende subartikel te vervang:
- 25 “(4) Die Raad kan geld wat ingevolge subartikel (1) ontvang is en nie vir onmiddellike gebruik nodig is nie, belê by die Openbare Beleggingskommissaris of die ander instelling wat die Minister **[met die instemming van die Minister van Finansies]** bepaal.”.

Wysiging van artikel 18 van Wet 56 van 1986

7. Artikel 18 van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- 30 “(a) hy ’n produsent is wat daardie diamant uit **[die see, of uit grond of puin]** ’n myn soos omskryf in artikel 1 van die Mineraalwet, 1991, gewin of gehaal het ooreenkomstig ’n lisensie, permit, huur of ander magtiging kragtens die **[Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964)]** Mineraalwet, 1991,
- 35 aan hom verleen of wat kragtens artikel 47 van genoemde Wet van krag bly;”.

Wysiging van artikel 25 van Wet 56 van 1986

8. Artikel 25 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 40 “(1) Iemand wat by toeval ’n ongeslypte diamant vind of optel op ’n plek waar hy of sy werkgewer nie veroorloof is om vir diamante ingevolge die **[Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964)]** Mineraalwet, 1991, te prospekter, delf of myn nie, moet daardie diamant onverwyld na die naaste polisiestasie neem en dit aan die diensdoenende lid van die Suid-Afrikaanse Polisie
- 45 oorhandig.”.

Invoeging van artikel 25A in Wet 56 van 1986

9. Die volgende artikel word hierby in die Hoofwet na artikel 25 ingevoeg:

“Deursoeking van persone en artikels

50 **25A.** (1) ’n Produsent of lisensiehouer of ’n vervaardiger van sintetiese diamante, of sy verteenwoordiger, het die reg om—

- (a) enigiemand, hetsy in diens in verband met die bedrywighede van so ’n produsent, lisensiehouer of vervaardiger al dan nie, op enige

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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.

(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.”

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:

“(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 unfavourable economic or other circumstances, but should in the national interest be worked or developed;”

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

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—

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

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grond waarop of gebou waarin daardie bedrywighede voortgesit word; en

(b) enige voertuig, vaartuig of lugvaartuig of enige ander voorwerp in die besit van so iemand of enige kledingstuk wat hy aan het, te deursoek of te laat deursoek.

(2) Deursoeking ingevolge subartikel (1) kan die aftakeling of uitmekaarhaal van so 'n voertuig, vaartuig, lugvaartuig, voorwerp of kledingstuk insluit, en so 'n deursoeking van 'n persoon word met stiptelike inagneming van die vereistes van welvoeglikheid en, in die geval van 'n vrouspersoon, slegs deur 'n vrouspersoon uitgevoer.

(3) Iemand wat weier om soos voormeld deursoek te word of wat 'n gemaagtigde persoon by 'n deursoeking ingevolge hierdie artikel belemmer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande, of met sowel daardie boete as daardie gevangenisstraf."

Wysiging van artikel 63 van Wet 56 van 1986

10. Artikel 63 van die Hoofwet word hierby gewysig deur subparagraaf (i) van paragraaf (a) van subartikel (1) deur die volgende subparagraaf te vervang:

20 "(i) daardie diamant gewin of uitgehaal is in 'n myn **[of alluviale delwery]** soos omskryf in artikel 1 van die **[Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964)]** Mineraalwet, 1991, of in 'n bepaalde gedeelte van so 'n **[alluviale delwery]** myn, wat op die datum waarop daardie diamant ingevolge hierdie Hoofstuk vir uitvoer geregistreer word, goedgekeur is deur die Minister, 25 met die instemming van die Minister van Finansies, as so 'n myn **[delwery]** of gedeelte wat weens ongunstige ekonomiese of ander omstandighede nie winsgewend ontgin of ontwikkel kan word nie, maar in die nasionale belang ontgin of ontwikkel behoort te word;"

Wysiging van artikel 82 van Wet 56 van 1986

30 11. Artikel 82 van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

"(a) 'n bepaling van artikel 18, 19 (1), 20, **[of]** 21 of 55 oortree;"

Wysiging van artikel 83 van Wet 56 van 1986

35 12. Artikel 83 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

"(b) 'n bepaling van artikel 33, 35 (1), 44, 48, 50 (1) of 52 **[of 55]** oortree;"

Wysiging van artikel 87 van Wet 56 van 1986

13. Artikel 87 van die Hoofwet word hierby gewysig—

40 (a) deur in paragraaf (a) die uitdrukking "R50 000" deur die uitdrukking "R250 000" te vervang;

(b) deur in paragraaf (b) die uitdrukking "R20 000" deur die uitdrukking "R100 000" te vervang;

(c) deur in paragraaf (c) die uitdrukking "R10 000" deur die uitdrukking "R50 000" te vervang; en

45 (d) deur in paragraaf (d) die uitdrukking "R5 000" deur die uitdrukking "R25 000" te vervang.

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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.

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Wysiging van artikel 93 van Wet 56 van 1986

14. Artikel 93 van die Hoofwet word hierby gewysig deur die volgende woorde by subartikel (1) te voeg:

- 5 “maar die Minister lê nie so 'n heffing op nie tensy die meerderheid van die lede
10 van die Raad bedoel in artikel 5 (1) (e), (g), (h) en (i) die heffing steun.”.

Kort titel en inwerkingtreding

15. (1) Hierdie Wet heet die Wysigingswet op Diamante, 1991.
(2) Artikels 1 (*b*), 2, 7, 8, en 9 tree in werking op die datum van herroeping van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964).
10 (3) Artikel 10 tree in werking op 'n datum twee jaar na die inwerkingtreding van artikel 45 van die Mineraalwet, 1991.

