

[SAPL4][a20y1967]MINING RIGHTS ACT 20 OF 1967[/SAPL4]

NOTE: The whole of this Act, except certain definitions in s. 1, and Chapter XVI, has been repealed by s. 68 (1) of the Minerals Act 50 of 1991, which came into operation on 1 January 1992. The unrepealed provisions are reproduced below.

[ASSENTED TO 24 FEBRUARY 1967]

[DATE OF COMMENCEMENT: 1 OCTOBER 1967]

(English text signed by the State President)

as amended by

Mining Rights Amendment Act 47 of 1976

Mining Rights Amendment Act 44 of 1978

Mining Rights Amendment Act 86 of 1981

Mining Rights Amendment Act 50 of 1983

Transfer of Powers and Duties of the State President Act 97 of 1986

Mining Rights Amendment Act 73 of 1988

Mining Rights Amendment Act 12 of 1991

Minerals Act 50 of 1991

ACT

To regulate prospecting and mining for precious metals, base minerals and natural oil in the Republic, and to provide for matters incidental thereto.

[a20y1967s1]1 Definitions

In this Act, unless the context otherwise indicates-

'precious metals' means-

(a) the metals gold, silver, platinum and iridium and any other metals of the platinum group, and the ores of any such metals; and

(b) any other metals which the State President has, with the approval, by resolution, of the House of Assembly, declared by proclamation in the Gazette to be precious metals for the purposes of this Act, and the ores of any such metals;

[Para. (b) amended by s. 1 (d) of Act 86 of 1981.]

'unwrought precious metal' means any unmanufactured precious metal in the form of bars, ingots, buttons, wire, plate, granules or in solution or in any other form whatsoever, or any article or substance containing such precious metal or any article consisting of or containing precious metal which although manufactured is not as such an article of commerce or a work of art or an article of archaeological interest;

CHAPTER XVI

DEALING IN UNWROUGHT PRECIOUS METAL (ss 143-157)

[a20y1967s143]143 Prohibitions relating to dealing in or possession of unwrought precious metal

(1) Save as is otherwise provided in this Act, no person shall buy, sell, deal in, receive or dispose of by way of barter, pledge or otherwise, either as principal or as agent, any unwrought precious metal, unless-

(a) he is the holder of a recovery works licence and concludes the transaction in accordance with the terms of his licence; or

(b) he is a banker within the Republic; or

(c) such unwrought precious metal has been won by him or his servants acting on his behalf from land on which he is lawfully entitled to prospect or mine for precious metals; or

(d) he has obtained a certificate from the mining commissioner authorizing him to be in possession or to dispose of such unwrought precious metal; or

[Para. (d) amended by s. 47 of Act 86 of 1981 and substituted by s. 1 (a) of Act 73 of 1988.]

(e) such unwrought precious metal is required for scientific purposes or in connection with any trade, industry or profession, and the person in possession thereof, not being a jeweller, has purchased such unwrought precious metal under the authority of and in accordance with a permit issued by the Commissioner of the South African Police or any person designated by him.

(2) No certificate contemplated in subsection (1) (d) shall be issued to any person except in consultation with the Commissioner of the South African Police or a person designated by him.

(3) No person shall have in his possession any unwrought precious metal unless-

(a) he is a person exempted under subsection (1); or

(b) he holds a jeweller's permit; or

(c) he is in possession of such metal in fulfilment of a contract of service with any such exempted person or holder of a jeweller's permit; or

(d) he has come into possession of such metal in a lawful manner.

(4)

[Sub-s. (4) deleted by s. 1 (b) of Act 73 of 1988.]

(5) No person shall deliver or cause to be delivered unwrought precious metal in payment of any debt due from him or any other person or in consideration of any service rendered or to be rendered to him or any other person.

[a20y1967s144]144 Issue and renewal of recovery works licences

(1) The receiver of revenue in any magisterial district may, with the written approval of the Commissioner of the South African Police or any person designated by him, and subject to the provisions of this section, issue to any person, in the form prescribed by regulation, a recovery works licence for such district entitling the holder to do all or any of the following, as may be specified in the licence, namely-

(a) to buy or receive unwrought precious metal in any form from the South African Mint or any manufacturing jeweller, dentist or engraver or any other person or class of persons approved by the Treasury;

(b) to refine or change the form of unwrought precious metal in his lawful possession and thereafter to dispose of such metal-

(i) to the South African Mint or any banker; or

(ii) to any person or class of persons approved by the Treasury;

(c) to extract precious metal from any material, substance or solution in his lawful possession and to dispose of such metal in accordance with the terms of his licence or the provisions of this Chapter;

(d) to extract silver from any solution in his lawful possession;

(e) to extract precious metal from tailings, slimes, waste rock or other mine residues in respect of which (if the residues are located on proclaimed land) he holds a permit under section 161, and to dispose of such metal in accordance with the provisions of this Chapter;

(f) to buy or receive from any person exempted under section 143 (1) (a), (b) or (c) any material, substance or solution in the lawful possession of that person containing precious metal, and to extract such metal and dispose thereof in accordance with the provisions of this Chapter.

[Sub-s. (1) amended by s. 2 (a) of Act 50 of 1983.]

(2) Any person who is refused a recovery works licence may, notwithstanding the provisions of subsection (1), within fourteen days after having been notified by the receiver of revenue concerned of the refusal, appeal to the Minister who may dismiss the appeal or direct the receiver of revenue to issue to such person, subject to the succeeding provisions of this section, such licence for the district concerned.

(3) There shall be paid to the receiver of revenue in respect of every recovery works licence a fee of fifty rand if the licence is issued for a year, or sixteen rand if it is issued for a quarter of a year.

(4) Any such licence shall, if issued for a year, expire on the thirty-first day of December of the year in respect of which it is issued, and any such licence issued for quarter of a year shall expire on the first ensuing thirty-first day of March, thirtieth day of June, thirtieth day of September or thirty-first day of December, depending on the quarter during which it is issued.

(5) No holder of such a licence shall carry on any activity authorized by the licence elsewhere than on the premises or at the place described on the licence or in any endorsement thereof in terms of subsection (6), and no such holder shall be in possession of unwrought precious metal (not being silver) at any place elsewhere than on the premises or at the place so described unless he holds in respect of such metal a transport permit referred to in section 147.

(6) If at any time it becomes necessary for any holder of such licence to transfer or extend the activities referred to in subsection (5) to any premises or place not described on his licence within the magisterial district, the receiver of revenue concerned shall endorse on the licence the situation of such new or additional premises or place and shall forthwith in writing notify the Commissioner of the South African Police of the endorsement.

(7) (a) Any such licence may upon payment of the fee prescribed by subsection (3) and with the written approval of the Commissioner of the South African Police or any person designated by him, be renewed by the receiver of

revenue for a calendar year or a quarter of a year, provided application for such renewal is made at least thirty days before the expiration of the licence.

[Para. (a) substituted by s. 2 (b) of Act 50 of 1983.]

(b) The provisions of subsection (2) shall apply in connection with the refusal by the receiver of revenue of any application under paragraph (a).

(8) Whenever-

(a) any application under subsection (7) for the renewal of a recovery works licence is refused by the receiver of revenue and no appeal against such refusal is lodged with the Minister or any appeal so lodged is dismissed; or

(b) any such licence has expired and no application for its renewal has been made by the holder thereof; or

(c) any such licence has been cancelled under the provisions of this Act; or

(d) the activities authorized by such licence are discontinued permanently,

the person who held the licence shall forthwith submit to the Commissioner of the South African Police a solemn declaration of the mass of the unwrought precious metal in his possession at the date such licence expired or was refused or cancelled or such activities were discontinued, and dispose of such precious metal in accordance with the provisions of this Chapter within fourteen days after the date of such declaration or within such longer period as the said Commissioner or any person designated by him, may allow.

[Sub-s. (8) amended by s. 2 (c) of Act 50 of 1983.]

(9) and (10)

[Sub-ss. (9) and (10) deleted by s. 48 of Act 86 of 1981.]

[a20y1967s145]145 Issue and renewal of jewellers' permits

(1) No person, other than a person referred to in section 143 (1) (a), (b), (c) or (e), shall make up, smelt or change the form of any precious metal, whether wrought or unwrought, unless he is the holder of a jeweller's permit.

[Sub-s. (1) amended by s. 49 (a) of Act 86 of 1981 and substituted by s. 3(a) of Act 50 of 1983 and by s. 2 (a) of Act 73 of 1988.]

(2) A jeweller's permit in the form prescribed by regulation may, with the written approval of the Commissioner of the South African Police or any person designated by him and subject to the succeeding provisions of this section, be obtained in respect of any magisterial district by any person from the receiver of revenue for such district.

[Sub-s. (2) amended by s. 3 (b) of Act 50 of 1983 and substituted by s. 2 (b) of Act 73 of 1988.]

(3) The fee for a jeweller's permit shall be ten rand.

(4) A jeweller's permit shall expire on the thirty-first day of December of the year in respect of which it is issued and the provisions of section 144

(2), (5) and (6) shall mutatis mutandis apply in connection with the issue of any such permit and to any holder of such a permit.

(5) A jeweller's permit shall not entitle the holder thereof to purchase or otherwise obtain unwrought precious metal except from a banker or the South African Mint or a person approved by the Treasury or another holder of a jeweller's permit.

[Sub-s. (5) substituted by s. 2 (c) of Act 73 of 1988.]

(6) The holder of a jeweller's permit shall keep a register in Afrikaans or English in the form prescribed by regulation and make therein such entries as are required according to that form immediately-

(a) on receipt or the disposal by such holder of unwrought precious metal;

[Para. (a) substituted by s. 2 (d) of Act 73 of 1988.]

(b) after the end of every day on which articles of precious metal or from material containing precious metal were manufactured by him; or

(c) after smelting by him of any jewellery or article containing precious metal.

(7) Every holder of a jeweller's permit shall produce and exhibit such register whenever requested to do so by any member of a police force duly established by law.

[Sub-s. (7) substituted by s. 3 (c) of Act 50 of 1983 and by s. 2 (e) of Act 73 of 1988.]

(8) The provisions of subsections (6) and (7) shall not apply to the holder of a jeweller's permit in respect of silver acquired or used by him.

(9) A jeweller's permit may upon payment of the fee prescribed in subsection (3), and with the written approval of the Commissioner of the South African Police or any person designated by him, be renewed by the receiver of revenue for a calendar year, provided application for such renewal is made at least thirty days before the expiration of such permit.

[Sub-s. (9) substituted by s. 3 (d) of Act 50 of 1983.]

(10) The provisions of section 144 (2) and (8) shall mutatis mutandis apply in the event of any application for the renewal of a jeweller's permit being refused by the receiver of revenue, and the provisions of section 144 (8) shall so apply whenever any such permit has expired and no application for its renewal has been made, or has been cancelled under the provisions of this Act or whenever the activities authorized by the permit are discontinued permanently.

(11)

[Sub-s. (11) deleted by s. 49 (b) of Act 86 of 1981.]

[a20y1967s146]146 Certain provisions to apply to holders of certain permits

The provisions of section 145 (6) and (7) shall mutatis mutandis apply to holders of permits referred to in section 143 (1) (e): Provided that the Commissioner of the South African Police or any person designated by him may exempt any person or class of persons from the said provisions as applied by this section.

[S. 146 amended by s. 4 of Act 50 of 1983.]

[a20y1967s147]147 Permit to transport unwrought precious metal

(1) No person except the holder of a jeweller's permit shall transport or in any manner convey any unwrought precious metal (not being silver) outside the boundaries of any mine, works or other property or place in which such metal is located, except under the authority of a permit issued by the Commissioner of the South African Police or any person designated by him: Provided that such a last-mentioned permit shall not be required for the transport or conveyance of any unwrought precious metal in respect of which a certificate under section 143 (1) (d) or a permit under section 143 (1) (e) has been issued.

[Sub-s. (1) amended by s. 5 (a) of Act 50 of 1983 and substituted by s. 3 of Act 73 of 1988.]

(2) A permit for the transport of conveyance of unwrought precious metal shall be in the form prescribed by regulation and may be issued subject to such special conditions as the Commissioner of the South African Police or any person designated by him may deem fit.

[Sub-s. (2) substituted by s. 5 (b) of Act 50 of 1983.]

[a20y1967s148]148 Banker entitled to buy unwrought precious metal in any form

(1) A banker shall be entitled to buy unwrought precious metal in any form from any person on production by such person of a permit in the form prescribed by regulation authorizing the sale of such metal or of a certificate issued to such person in terms of section 143 (1) (d) in respect of such precious metal: Provided that no such permit or certificate shall be required in respect of unwrought precious metal in bar, ingot, button or other form identifiable by a specific mark cast, or die-stamped on each bar, ingot, button or other form, if such mark has been registered in the office of the mining commissioner and written particulars thereof have been furnished to such banker by the mining commissioner.

(2) Any permit required under subsection (1) may be obtained-

(a) in the case of unwrought precious metal in the lawful possession of any person exempted under section 143 (1) (c) or of the holder of a recovery works licence authorizing the activities referred to in section 144 (1) (e), from the mining commissioner;

(b) in the case of unwrought precious metal in the lawful possession of any other person, from the Commissioner of the South African Police or any person designated by him.

[Para. (b) substituted by s. 6 of Act 50 of 1983.]

(3) Where a transaction takes place between a banker and the holder of a permit or certificate referred to in subsection (1) of this section, such permit or certificate and, if the transaction does not relate to silver only, the permit issued to such holder under section 147 shall be retained by the banker.

[a20y1967s149]149 Register of transactions to be kept by persons dealing in unwrought precious metal

(1) Every holder of a recovery works licence and every banker and every person who receives or deposits for safekeeping or despatch unwrought precious metal shall keep a true and correct register in Afrikaans or English in the form

prescribed by regulation of all unwrought precious metal deposited with or received or despatched or otherwise disposed of by him, and shall enter or cause to be entered in such register immediately after each such transaction-

(a) the date of the transaction;

(b) the names and addresses of the parties to the transaction;

(c) the nature and mass of the material or the mass of the precious metal which is the subject of the transaction;

[Para. (c) amended by s. 7 (a) of Act 50 of 1983.]

(d) the price (if any) received or paid.

(2) The provisions of subsection (1) shall not apply-

(a) to the holder of any such licence obtained by him in connection with the treatment of any residues in respect of which he holds a permit issued under section 161; or

(b) to any holder of a jeweller's permit who is required to keep a register as provided in section 145 (6).

(3) Every person required by this section to keep a register shall on or before the fifteenth day of each month transmit or deliver to the Commissioner of the South African Police a true copy in duplicate of such register for the last preceding month, together with a solemn declaration of the correctness thereof, and shall produce and exhibit such register whenever requested to do so by any member of a police force duly established by law holding a rank of or above the rank of sergeant.

[Sub-s. (3) substituted by s. 7 (b) of Act 50 of 1983.]

[a20y1967s150]150 Powers of police to search for unwrought precious metal

Any member of a police force duly established by law in charge of any investigation in connection with suspected unlawful traffic in unwrought precious metal may-

(a) at all times enter upon and examine and search any place or works for the reception of unwrought precious metal, stop and search and examine every vehicle (or any part thereof) conveying or suspected to be conveying unwrought precious metal, and-

(i) seal, mark or otherwise secure any package or container found in such place, works or vehicle;

(ii) take an account of all unwrought precious metal found in such place, works or vehicle and, if he thinks fit, take such unwrought precious metal into custody;

(b) force access to or open any place, works, vehicle, package or container which is locked if the keys thereof are not produced upon his demand;

(c) search any person whom he has reason to believe has unwrought precious metal secreted about his person or in his possession: Provided that a female shall not be searched by any person other than a female;

(d) board, search and freely remain on any train or vessel, or board and search any aircraft on which unwrought precious metal is being conveyed or on which such metal is suspected to be conveyed.

[a20y1967s151]151 Powers of police concerning parcels and packages containing unwrought precious metal transmitted by post

(1) Notwithstanding anything in any other law contained, it shall be lawful for any member of the South African Police in charge of any investigation in connection with suspected unlawful traffic in unwrought precious metal, to stop or cause to be stopped or cause to be stopped either during transit or otherwise any parcel or package which is being or has been transmitted through the post if he has reason to believe that such parcel or package contains unwrought precious metal.

(2) Where any such parcel or package has been so stopped the member of the South African Police so in charge shall by notice in writing served personally upon the person who has despatched such parcel or package, call upon such person to attend either personally or by an agent duly authorized by that person in writing, at the time and place specified in such notice, for the purpose of being present at the opening and examination of the parcel or package, and shall thereupon on the day and place appointed in such notice open and examine the parcel or package for the purpose of determining its contents.

[a20y1967s152]152 Powers of mining commissioner and police to enter and to inspect premises

The mining commissioner or any member of a police force duly established by law holding a rank of or above the rank of sergeant shall, notwithstanding the provisions of any law, have power-

(a) to enter, inspect or examine at all reasonable times by day or by night any jeweller's premises (whether or not the occupier thereof is the holder of a jeweller's permit) and any reduction or smelting works, whether situated on a mine or elsewhere, and any other place or works where he has reason to believe that unwrought precious metal is being unlawfully kept;

(b) to make such inquiry and examination as he may consider necessary in order to ascertain whether the provisions of this Act relating to unwrought precious metal are being or have been complied with;

(c) to take samples of any unwrought precious metal that may be stored or lying at any place or works, and to make such other investigations as he may consider necessary.

[a20y1967s153]153 Offences under this Chapter and penalties therefor

(1) Any person who-

(a) contravenes the provisions of section 143 (1) or (3);

[Para. (a) substituted by s. 4 (a) of Act 73 of 1988.]

(b) contravenes the provisions of section 144 (5) or of the said section 144 (5) as applied to holders of jewellers' permits by section 145 (4);

(c) contravenes the provisions of section 145 (1) or (5);

(d) buys unwrought precious metal without having satisfied himself that the vendor thereof is lawfully entitled to sell or dispose of such metal;
or

(e) maliciously places any unwrought precious metal in the possession or on the premises of any other person with intent that such other person shall be convicted under any provision of this Act relating to unwrought precious metal,

shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rand or imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment, and if any person so convicted is at the time of his conviction the holder of a recovery works licence or a jeweller's permit, he shall forfeit such licence or permit and any right of renewal thereof for such period as the court convicting him may direct.

[Para. (e) amended by s. 4 (b) of Act 73 of 1988.]

(2) Any person who-

(a) contravenes the provisions of section 143 (5);

(b) contravenes the provisions of section 144 (8) or of the said section 144 (8) as applied by section 145 (10) to holders of jewellers' permits and persons who previously held such permits;

(c) contravenes the provisions of section 145 (6) or (7) or of section 145 (6) or (7) as applied by section 146 or who fails to comply with any lawful request to produce and exhibit the register required to be kept by him in terms of section 145 (6) or of the said section 145 (6) as so applied;

(d) contravenes the provisions of section 147 (1) or fails to comply with any condition attached to any permit referred to in section 147;

(e) being a banker, buys unwrought precious metal from any person who has not produced a permit or certificate as provided in section 148 (1) or fails to comply with the provisions of section 148 (3); or

(f) contravenes the provisions of section 149 (1) or (3) or fails to comply with any lawful request to produce and exhibit the register required to be kept by him in terms of section 149,

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or imprisonment for a period not exceeding six months, and shall, if he is at the time of his conviction the holder of a recovery works licence or a jeweller's permit, forfeit any such licence or permit and any right of renewal thereof for such period as the court convicting him may direct.

[Sub-s. (2) amended by s. 4 (c) of Act 73 of 1988.]

[a20y1967s154]154 Accessories and persons attempting to contravene provisions of this Act relating to unwrought precious metal

Any person who is an accessory, either before or after the fact, to an offence mentioned in section 153, shall be liable to be charged and dealt with in all respects as if he were a principal offender, and any person who attempts to commit any such offence shall be deemed to have actually committed the offence, and shall be liable to the penalties prescribed in the said section for the particular offence which he has attempted to commit.

[a20y1967s155]155 Burden of proof in proceedings under this Chapter

Whenever in any proceedings against any person under this Act-

(a) it is necessary to determine whether he is or was the holder of a recovery works licence or jeweller's permit or otherwise entitled to be in possession of or authorized to buy, sell, deal in, receive or dispose of unwrought precious metal; or

(b) such person contends that any article, substance or material which is the subject of such proceedings is not unwrought precious metal,

the burden of proving that he is or was the holder of such a licence or permit or is or was otherwise entitled or authorized as aforesaid, or that such article, substance or material is not unwrought precious metal, shall lie upon such person.

[a20y1967s156]156 Disposal of precious metal in case of conviction and forfeiture of moneys, etc., in certain circumstances

(1) On conviction of any person under the provisions of section 153 or 154, the court which passed sentence may in its discretion order that any precious metal, whether wrought or unwrought, in respect of which he has been convicted be delivered to the owner thereof (if the court is satisfied as to the ownership) or, if it is not so satisfied, that such precious metal be forfeited to the State.

(2) Whenever any member or agent of the South African Police has come to an agreement with any person to transfer possession of any unwrought precious metal to such person upon payment or delivery by him to such member or agent of an amount in money or other consideration, property or security, and such person is subsequently in connection with such transaction convicted of an offence under this Act, and any money, consideration, property or security was paid or delivered by the said person to such member or agent either on account of the transfer of possession of such precious metal to that person, or in the expectation that the possession of such precious metal will be transferred to him, such money, consideration, property or security shall, notwithstanding anything to the contrary in any law contained, be forfeited to the State and be disposed of as directed by the Treasury.

[Sub-s. (2) substituted by s. 1 of Act 47 of 1976.]

[a20y1967s157]157 Disabilities entailed by conviction

If any person who carries on any trade, business or occupation for which a recovery works licence or jeweller's permit is not required under this Act, is convicted of any offence under the provisions of section 153 or 154, such person shall, in addition to the penalties prescribed in section 153, forfeit any licence authorizing him to carry on any such trade, business or occupation and any right of renewal thereof for such period as the court convicting him may direct.