



**GENERAL EXPLANATORY NOTE:**

- [                    ]    Words in bold type in square brackets indicate omissions from existing enactments.
- \_\_\_\_\_                Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)  
(Assented to 10 February 2006.)*

# ACT

To amend the Diamonds Act, 1986, so as to define certain expressions; to prohibit assistance to licensees by non-licensed persons at any place where unpolished diamonds are offered for sale; to provide anew for the kinds of licences that may be issued by the South African Diamond and Precious Metals Regulator; to provide for the issue of temporary diamond buyers' permits and certificates which entitle holders thereof to be in possession of unpolished diamonds under certain circumstances; to make fresh provision for the premises on which unpolished diamonds may be dealt in; to require that unpolished diamonds intended for export purposes must first be offered at a diamond exchange and export centre; to extend the powers of the Regulator and of the State Diamond Trader; to require diamond producers to offer a percentage of all diamonds produced in a production cycle to the State Diamond Trader; to require a licensee to retain a register in respect of unpolished diamonds for five years and not only two years; and to repeal certain obsolete provisions; and to provide for matters connected therewith.

**B**E IT ENACTED by 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, section 1 of Act 22 of 1989 and section 1 of Act 10 of 1991**

1. Section 1 of the Diamonds Act, 1986 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion after the definition of "dealer" of the following definition:  
    " **'diamond beneficiator'** means a person who holds a licence contemplated in section 26(b) or (c);" and

(b) by the insertion before the definition of "diamond powder" of the following definition: 10

    " **'diamond exchange and export centre'** means a diamond exchange and export centre contemplated in section 59(b);".

**Substitution of section 19 of Act 56 of 1986**

2. The following section is hereby substituted for section 19 of the principal Act: 15

ALGEMENE VERDUIDELIKENDE NOTA:

- [                            ]      Woorde in vet druk tussen vierkantige hake dui skrappings uit  
bestaande verordenings aan.
- \_\_\_\_\_                            Woorde met 'n volstreep daaronder dui invoegings in bestaande  
verordenings aan.

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(Engelse teks deur die President geteken.)  
(Goedgekeur op 10 Februarie 2006.)

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## WET

Tot wysiging van die Wet op Diamante, 1986, ten einde bepaalde uitdrukings te omskryf; om hulp aan lisensiehouers deur nie-gelisensieerde persone te verbied op enige plek waar ongeslypte diamante te koop aangebied word; om opnuut voorsiening te maak vir die soorte lisensies wat deur die Suid-Afrikaanse Diamanten Edelmetaalreguleerder uitgereik kan word; om voorsiening te maak vir die uitreiking van tydelike diamantkoperspermitte en sertifikate wat die houers daarvan geregtig maak om in besit te wees van ongeslypte diamante in bepaalde omstandighede; om opnuut voorsiening te maak vir die persele waarop ongeslypte diamante verhandel kan word; om te vereis dat ongeslypte diamante bedoel vir uitvoerdoeleindes eers by 'n diamantbeurs en -uitvoersentrum aangebied moet word; om die bevoegdhede van die Reguleerder en van die Staatsdiamanhandelaar uit te brei; om van diamantprodusente te vereis om 'n persentasie van alle diamante vervaardig in 'n produksiesiklus te bied aan die Staatsdiamanhandelaar; om van 'n lisensiehouer te vereis om vir vyf jaar en nie net twee jaar nie 'n register te hou ten opsigte van ongeslypte diamante; om bepaalde uitgediende bepalings te herroep; en om voorsiening te maak vir angeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 56 van 1986, soos gewysig by artikel 1 van Wet 28 van 1988, artikel 1 van Wet 22 van 1989 en artikel 1 van Wet 10 van 1991

I. Artikel 1 van die Wet op Diamante, 1986 (hierna die Hoofwet genoem), word hierby gewysig— 5

(a) deur die volgende omskrywing ná die omskrywing van “handelaar” in te voeg:

“ ‘diamantveredelaar’ ’n persoon wat ’n liseusic beoog in artikel 26(b) of (c) hou;”; en 10

(b) deur die volgende omskrywing voor die omskrywing van “diamantpoeier” in te voeg:

“ ‘diamantbeurs en -uitvoersentrum’ ’n diamantbeurs en -uitvoersentrum beoog in artikel 59(b);”.

**“Sale of unpolished diamonds prohibited**

- 19.** (1) No person shall sell any unpolished diamond unless—
- (a) he or she is a producer;
  - (b) he or she has manufactured that diamond, if it is a synthetic diamond;
  - or
  - (c) he or she is a dealer; or
  - (d) he or she is the holder of a permit referred to in section [40(1)(a) or (2)] 26h.

(2) The provisions of subsection (1) shall not be construed so as to authorize such producer[,], or dealer or holder of a permit to sell any unpolished diamond which has come into his or her possession in an unlawful manner.”.

**Substitution of section 20 of Act 56 of 1986**

3. The following section is hereby substituted for section 20 of the principal Act:

**“Purchase of unpolished diamonds prohibited** 15

- 20.** No person shall purchase any unpolished diamond unless—
- (a) he or she is a licensee; or
  - (b) he or she is the holder of a permit referred to in section [40(1)(b)] 26(e).”.

**Insertion of section 20A in Act 56 of 1986** 20

4. The following section is hereby inserted in the principal Act after section 20:

**“Assistance by non-licensed persons prohibited**

- 20A.** (1) No licensee may be assisted by a non-licensee or holder of a permit referred to in section 26(e) during the viewing, purchasing or selling of unpolished diamonds at any place where unpolished diamonds are offered for sale in terms of this Act, except at a diamond exchange and export centre. 25
- (2) No holder of a diamond trading house licence referred to in section 26(f) or any person authorized in terms of this Act to sell unpolished diamonds may allow the assistance prohibited in subsection (1).”.

**Substitution of section 22 of Act 56 of 1986**

5. The following section is hereby substituted for section 22 of the principal Act:

**“Processing of diamonds prohibited**

- 22.** No person shall polish any diamond or crush or set any unpolished diamond in any tool, implement or other article unless— 35
- (a) he or she is a [cutter, tool-maker] diamond beneficiator or researcher;
  - (b) he or she is an employee acting in the course of his or her employment with that [cutter, tool-maker] diamond beneficiator or researcher; or
  - (c) he or she is authorized thereto in writing by the [Board] Regulator.”.

**Substitution of section 23 of Act 56 of 1986** 40

6. The following section is hereby substituted for section 23 of the principal Act:

**“Erection and operation of machinery prohibited**

- 23.** No person shall erect or operate any machine designed or adapted for the polishing of diamonds unless—
- (a) he or she is a [cutter, tool-maker] diamond beneficiator or researcher; 45

**Vervanging van artikel 19 van Wet 56 van 1986**

2. Artikel 19 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op verkoop van ongeslypte diamante**

- 19.** (1) Geen persoon mag 'n ongeslypte diamant verkoop nie tensy—
- (a) hy of sy 'n produsent is; 5
  - (b) hy of sy daardie diamant, indien dit 'n sintetiese diamant is, vervaardig het;
  - (c) hy of sy 'n handelaar is; of
  - (d) hy of sy die houer is van 'n permit in artikel [40(1)(a) of (2)] 26(h) bedoel. 10
- (2) Die bepalinge van subartikel (1) word nie so uitgelê nie as sou dit bedoelde produsent[,], of handelaar of houer van 'n permit magtig om 'n ongeslypte diamant te verkoop wat op 'n onwettige wyse in sy of haar besit gekom het.”.

**Vervanging van artikel 20 van Wet 56 van 1986**

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3. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op koop van ongeslypte diamante**

- 20.** Geen persoon mag 'n ongeslypte diamant koop nie tensy—
- (a) hy of sy 'n lisensiehouer is; of
  - (b) hy of sy die houer is van 'n permit in artikel [40(1)(b)] 26(e) bedoel.”. 20

**Invoeging van artikel 20A in Wet 56 van 1986**

4. Die volgende artikel word hierby ná artikel 20 in die Hoofwet ingevoeg:

**“Verbod op hulp deur nie-gelisensieerde persone**

- 20A.** (1) Geen lisensiehouer mag deur 'n nie-lisensiehouer of houer van 'n permit bedoel in artikel 26(e) gehelp word gedurende die besigtiging, koop of verkoop van ongeslypte diamante op enige plek waar ongeslypte diamante te koop aangebied word ingevolge hierdie Wet nie, behalwe by 'n diamantbeurs en -uitvoersentrum. 25
- (2) Geen houer van 'n diamanthandelshuislisensie bedoel in artikel 26(f) of enige persoon ingevolge hierdie Wet gemagtig om ongeslypte diamante te verkoop, mag die hulp wat in subartikel (1) verbied word, verleen nie.”. 30

**Vervanging van artikel 22 van Wet 56 van 1986**

5. Artikel 22 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op verwerking van diamante**

- 22.** Geen persoon mag 'n diamant slyp of 'n ongeslypte diamant fynmaak of in enige gereedskap, werktuig of ander artikel monteer nie tensy— 35
- (a) hy of sy 'n [slyper, gereedskapmaker] diamantveredelaar of navorser is;
  - (b) hy of sy 'n werknemer is wat handel in die loop van sy of haar diens by daardie [slyper, gereedskapmaker] diamantveredelaar of 40 navorser; of
  - (c) hy of sy skriftelik deur die [Raad] Reguleerder daartoe gemagtig is.”.

- (b) he or she is an employee acting in the course of his or her employment with that **[cutter, tool-maker]** diamond beneficiator or researcher; or  
 (c) he or she is authorized thereto in writing by the **[Board] Regulator**.”.

**Substitution section 24 of Act 56 of 1986**

7. The following section is hereby substituted for section 24 of the principal Act: 5

**“Export of unpolished diamonds prohibited**

24. No person shall export any unpolished diamond from the Republic unless—

- (a) he or she is a producer;  
 (b) he or she has manufactured that diamond, if it is a synthetic diamond; 10  
 (c) he or she is a dealer; or  
 (d) he or she is the holder of a permit referred to in section **[40(1)(a) or (c) or (2)] 26(e) or (h)**.”.

**Substitution of section 26 of Act 56 of 1986**

8. The following section is hereby substituted for section 26 of the principal Act: 15

**“Kind of licence, and permit and certificate**

26. Subject to **[the provisions of]** this Chapter, the **[Board] Regulator** may issue the following licences, permits or certificates, namely—

- (a) a diamond dealer’s licence entitling the holder to carry on business as a buyer, seller, importer or exporter of unpolished diamonds; 20  
 (b) a diamond **[cutting] beneficiation** licence entitling the holder to polish diamonds for the purpose of business or trade;  
 (c) a diamond **[tool-making] beneficiation** licence entitling the holder to set unpolished diamonds in tools, implements or other articles or to crush or to alter those diamonds for the purpose of such setting or for the purpose of trade; 25  
 (d) a diamond research licence entitling the holder to do applied research and tests in connection with diamonds, but not to polish diamonds for the purpose of business or trade;  
 (e) a temporary diamond buyer’s permit entitling a person who does not hold a licence in terms of this section to buy an unpolished diamond from a diamond exchange and export centre; 30  
 (f) a diamond trading house licence entitling the holder thereof to facilitate the buying and selling of unpolished diamonds locally on premises registered in terms of section 47; 35  
 (g) a certificate entitling a person to be in possession of an unpolished diamond obtained in a lawful manner.”.  
 (h) a permit entitling a person to sell, export or import an unpolished diamond on prescribed conditions.

**Substitution of section 32 of Act 56 of 1986**

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9. The following section is hereby substituted for section 32 of the principal Act:

**“Period of validity [of licences] and renewal of licence, permit and certificate**

32. (1) Subject to **[the provisions of]** subsection (2)[, a licence shall be valid until it is suspended or cancelled in terms of this Chapter.]— 45

- (a) a diamond dealer’s licence contemplated in section 26(a) is valid for a period of five years;  
 (b) a diamond beneficiation licence contemplated in section 26(b) or (c) is valid for a period of five years;  
 (c) a diamond research licence contemplated in section 26(d) is valid until it is suspended or cancelled in terms of this Chapter; 50

**Vervanging van artikel 23 van Wet 56 van 1986**

6. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op oprigting en gebruik van masjinerie**

23. Geen persoon mag 'n masjien wat vir die slyp van diamante ontwerp of aangepas is, oprig of gebruik nie tensy— 5
- (a) hy of sy 'n [slyper, gereedskapmaker] diamantveredelaar of navorsers is; 5
- (b) hy of sy 'n werknemer is wat handel in die loop van sy of haar diens by daardie [slyper, gereedskapmaker] diamantveredelaar of navorsers; of 10
- (c) hy of sy skriftelik deur die [Raad] Reguleerder daartoe gemagtig is.”.

**Vervanging artikel 24 van Wet 56 van 1986**

7. Artikel 24 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op uitvoer van ongeslypte diamante**

24. Geen persoon mag 'n ongeslypte diamant vanuit die Republiek uitvoer nie tensy— 15
- (a) hy of sy 'n produsent is; 15
- (b) hy of sy daardie diamant, indien dit 'n sintetiese diamant is, vervaardig het; 15
- (c) hy of sy 'n handelaar is; of 20
- (d) hy of sy die houer is van 'n permit in artikel [40(1)(a) of (c) of (2)] 26(e) of (h) bedoel.”.

**Vervanging van artikel 26 van Wet 56 van 1986**

8. Artikel 26 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Soort lisensie, en permit en sertifikaat 25**

26. Behoudens [die bepalings van] hierdie Hoofstuk, kan die [Raad] Reguleerder die volgende lisensies, permitte of sertifikate uitreik, naamlik—
- (a) 'n diamanthandelaarslisensie wat die houer [die reg verleen] magtig om as koper, verkoper, invoerder of uitvoerder van ongeslypte diamante sake te doen; 30
- (b) 'n [diamantslyplisensie] diamantveredelingslisensie wat die houer [die reg verleen] magtig om diamante vir besigheids- of handelsdoeleindes te slyp; 35
- (c) 'n [diamantgereedskapvervaardigingslisensie] diamantveredelingslisensie wat die houer [die reg verleen] magtig om ongeslypte diamante in gereedskap, werktuie of ander artikels te monteer of om daardie diamante vir [die] doeleindes van sodanige montering of vir handelsdoeleindes fyn te maak of te verander; 35
- (d) 'n diamantnavorsingslisensie wat die houer [die reg verleen] magtig om toegepaste navorsing en proewe in verband met diamante te doen, maar nie om diamante vir besigheids- of handelsdoeleindes te slyp nie; 40
- (e) 'n tydelike diamantkoperspermit wat die houer wat nie 'n lisensie ingevolge hierdie artikel het nie, magtig om 'n ongeslypte diamant van 'n diamantbeurs en -uitvoersentrum te koop; 45
- (f) 'n diamanthandelshuislisensie wat die houer daarvan magtig om die koop en verkoop van ongeslypte diamante plaaslik te fasiliteer op persele geregistreer ingevolge artikel 47; 45
- (g) 'n sertifikaat wat 'n persoon magtig om in besit te wees van 'n ongeslypte diamant verkry op wettige wyse; 50
- (h) 'n permit wat 'n persoon magtig om 'n ongeslypte diamant op voorgeskrewe voorwaarde te verkoop, uit te voer of in te voer.”.

- (d) a temporary diamond buyer's permit contemplated in section 26(e) is valid for a period of one month;
- (e) a diamond trading house licence contemplated in section 26(f) is valid for a period of five years;
- (f) a certificate contemplated in section 26(g) is valid for a renewable period of 10 years unless the holder of an unpolished diamond disposes of the unpolished diamond, in which case the certificate shall be transferred to the new holder of that unpolished diamond and shall be endorsed by the Regulator to reflect the changes.
- (g) a permit contemplated in section 26(h) is valid for such period as the Regulator may determine.
- (2) (a) The [Board] Regulator may **authorize the issue of a temporary licence for such period, but not exceeding one year, as the Board may determine** renew any licence, permit or certificate referred to in section 26.
- (b) This Chapter applies with the necessary changes in respect of an application for the renewal of a licence, permit or certificate.
- (c) In the event of the death of the holder of a certificate contemplated in section 26(g), his or her lawful successor must apply to the Regulator for the certificate to be endorsed to reflect the change in the holder of that unpolished diamond."

#### Substitution of section 44 of Act 56 of 1986

10. The following section is hereby substituted for section 44 of the principal Act:

#### **Utilization of unregistered premises as [diamond exchanges] diamond trading house prohibited**

44. No person shall utilize any premises as a [diamond exchange] diamond trading house unless he or she holds a diamond trading house licence and those premises are registered as a [diamond exchange] diamond trading house in terms of this [Chapter] Act."

#### Amendment of section 45 of Act 56 of 1986

11. Section 45 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any person who desires to **utilize** register any premises as a [diamond exchange] diamond trading house shall apply to the [Board] Regulator in writing for the registration of those premises as a [diamond exchange] diamond trading house."

#### Amendment of section 46 of Act 56 of 1986

12. Section 46 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The [Board] Regulator may at its discretion grant or refuse an application referred to in section 45, but the [Board] Regulator shall not grant any application if **[it is of the opinion]**—

- (a) **[that] the applicant [or, where the applicant is a company, any director thereof or, where the applicant is a close corporation, any member thereof is not a suitable person to utilize the premises as a diamond exchange, or to be involved in such utilization]** is not the holder of a diamond trading house licence;
- (b) **[that an interest which]** any person has an interest in the applicant that is undesirable;
- (c) **[that]** the premises do not comply with the prescribed requirements; or
- [(d) that the applicant will probably not be able to exercise in a satisfactory manner control over the utilization of the premises as a diamond exchange; or]**
- (e) **[that]** the registration of the premises as a [diamond exchange] diamond trading house will be contrary to the public interest."



**Vervanging van artikel 32 van Wet 56 van 1986**

9. Artikel 32 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Geldigheidsduur en hernuwing van [lisensies] lisensie, permit en sertifikaat**

32. (1) Behoudens [die bepaling van] subartikel (2) [is ’n lisensie 5  
geldig totdat dit ingevolge hierdie Hoofstuk opgeskort of ingetrek  
word.]—

(a) is ’n diamanthandelaarslisensie beoog in artikel 26(a) geldig vir ’n 5  
tydperk van vyf jaar;

(b) is ’n diamantveredelingslisensie beoog in artikel 26(b) of (c) geldig vir 10  
’n tydperk van vyf jaar;

(c) is ’n diamantnavorsingslisensie beoog in artikel 26(d) geldig totdat dit  
opgeskort of gekanselleer word ingevolge hierdie Hoofstuk;

(d) is ’n tydelike diamantkoperspermit beoog in artikel 26(e) geldig vir ’n 15  
tydperk van een maand;

(e) is ’n diamanthandelshuislisensie beoog in artikel 26(f) geldig vir ’n  
tydperk van vyf jaar;

(f) is ’n sertifikaat beoog in artikel 26(g) geldig vir ’n hernieubare tydperk 20  
van 10 jaar tensy die houer van ’n ongeslypte diamant oor die  
ongeslypte diamant beskik, in welke geval die sertifikaat oorgedra  
moet word na die nuwe houer van daardie ongeslypte diamant en  
geëndosseer moet word deur die Reguleerder om die veranderings te  
weerspieël;

(g) ’n permit in artikel 26(h) beoog, geldig is vir sodanige tydperk as wat 25  
die Reguleerder bepaal.

(2) (a) Die [Raad] Reguleerder kan [die uitreiking magtig van ’n  
tydelike lisensie vir die tydperk, maar hoogstens een jaar, wat die Raad  
kan bepaal] enige lisensie, permit of sertifikaat genoem in artikel 26  
hernieu.

(b) Hierdie Hoofstuk is met die nodige veranderings van toepassing ten 30  
opsigte van ’n aansoek om die hernuwing van ’n lisensie, permit of  
sertifikaat.

(c) In die geval van die dood van die houer van ’n sertifikaat beoog in 35  
artikel 26(g), moet sy of haar wettige opvolger by die Reguleerder aansoek  
doen om die sertifikaat wat geëndosseer moet word ten einde die  
verandering in die houer van daardie ongeslypte diamant te weerspieël.”.

**Vervanging van artikel 44 van Wet 56 van 1986**

10. Artikel 44 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op gebruik van ongeregistreerde perseel as [diamantbeurse] 40  
diamanthandelshuis**

44. Geen persoon mag ’n perseel as ’n [diamantbeurse] diamant-  
handelshuis gebruik nie tensy hy of sy ’n diamanthandelshuislisensie hou  
en daardie perseel as ’n [diamantbeurse] diamanthandelshuis ingevolge  
hierdie [Hoofstuk] Wet geregistreer is.”.

**Wysiging van artikel 45 van Wet 56 van 1986**

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11. Artikel 45 van die Hoofwet word hierby gewysig deur subartikel (1) deur die  
volgende subartikel te vervang:

“(1) ’n Persoon wat ’n perseel as ’n [diamantbeurse] diamanthandelshuis wil  
[gebruik] registreer, moet skriftelik by die [Raad] Reguleerder om die registrasie  
van daardie perseel as ’n [diamantbeurse] diamanthandelshuis aansoek doen.”. 50

**Substitution of section 48 of Act 56 of 1986**

13. The following section is hereby substituted for section 48 of the principal Act:

**“Dealings in unpolished diamonds restricted to approved premises**

- 48.** (1) No producer, manufacturer of synthetic diamonds[, or dealer [or holder of a permit referred to in section 40(1)(a) or (2)]] shall sell any unpolished diamond elsewhere than on—
- (a) the business premises of a licensee;
  - (b) any premises [registered] licensed as a [diamond exchange] diamond trading house in terms of this [Chapter] Act;
  - (bA) the premises of any diamond exchange and export centre established by the Regulator in terms of this Act; 10
  - (bB) the premises of the State Diamond Trader; or
  - (c) **the premises referred to in subsection (2)(d); or**
  - (d) such other premises as the [Board] Regulator may approve under section 49 on application in writing by such producer, manufacturer or holder. 15
- (2) No licensee shall receive or purchase any unpolished diamond elsewhere than on—
- (a) the business premises of a licensee;
  - (b) any premises [registered] licensed as a [diamond exchange] diamond trading house in terms of this [Chapter] Act; 20
  - (bA) the premises of any diamond exchange and export centre established by the Regulator in terms of this Act;
  - (bB) the premises of the State Diamond Trader; or
  - (c) **the premises referred to in subsection (1)(d); or** 25
  - (d) such other premises as the [Board] Regulator may approve under section 49 on application in writing by the licensee.”.

**Insertion of section 48A in Act 56 of 1986**

14. The following section is hereby inserted in the principal Act after section 48:

**“Condition for export of unpolished diamonds 30**

**48A.** All unpolished diamonds intended for export purposes must first in the prescribed manner be offered at a diamond exchange and export centre.”.

**Substitution of section 50 of Act 56 of 1986**

15. The following section is hereby substituted for section 50 of the principal Act: 35

**“Processing of diamonds restricted to approved premises**

- 50.** (1) Subject to [the provisions of] this section, no [cutter, tool-maker] diamond beneficiator or researcher shall polish any diamond or crush or set any unpolished diamond in any tool, implement or other article elsewhere than on his or her business premises. 40
- (2) A [cutter] diamond beneficiator may apply to the [Board] Regulator to polish diamonds on such premises other than his or her business premises and for such period as the [Board] Regulator may approve.
- (3) [The provisions of section] Section 49 shall *mutatis mutandis* apply in respect of an application by a [cutter] diamond beneficiator in terms of subsection (2).”.
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**Wysiging van artikel 46 van Wet 56 van 1986**

12. Artikel 46 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- “(2) Die [Raad] Reguleerder kan na goëddunke ’n aansoek bedoel in artikel 45 toestaan of van die hand wys, maar die [Raad] Reguleerder staan nie ’n aansoek toe nie indien [hy van oordeel is]— 5
- (a) [dat] die aansoeker [of, waar die aansoeker ’n maatskappy is, ’n direkteur daarvan of, waar die aansoeker ’n beslote korporasie is, ’n lid daarvan nie ’n geskikte persoon is nie om die perseel as ’n diamantbeurs te gebruik, of om by sodanige gebruik betrokke te wees] nie die houer is van ’n diamanhandelshuislisensie nie; 10
- (b) [dat ’n belang wat die een of ander] enige persoon in die aansoeker ’n belang het wat ongewens is;
- (c) [dat] die perseel nie aan die voorgeskrewe vereistes voldoen nie; of
- [(d) dat die aansoeker waarskynlik nie in staat sal wees nie om op ’n 15 bevredigende wyse beheer oor die gebruik van die perseel as ’n diamantbeurs uit te oefen; of]
- (e) [dat] die registrasie van die perseel as ’n [diamantbeurs] diamanhandelshuis strydig met die openbare belang sal wees.”.

**Vervanging van artikel 48 van Wet 56 van 1986**

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13. Artikel 48 van die Hoofwet word hierby deur die volgende artikel vervang:

“Handelinge met ongeslypte diamante beperk tot goedgekeurde perseel

48. (1) Geen produsent, vervaardiger van sintetiese diamante[,] of handelaar [of houer van ’n permit in artikel 40(1)(a) of (2) bedoel,] mag ’n ongeslypte diamant verkoop nie elders as op— 25
- (a) die sakeperseel van ’n lisensiehouer;
- (b) ’n perseel wat as ’n [diamantbeurs] diamanhandelshuis ingevolge hierdie [Hoofstuk geregistreer] Wet gelisensieer is;
- (bA) die perseel van enige diamantbeurs en -uitvoersentrum deur die 30 Reguleerder ingevolge hierdie Wet ingestel;
- (bB) die perseel van die Staatsdiamanhandelaar; of
- [(c) die perseel in subartikel (2)(d) bedoel; of]
- (d) [die] sodanige ander perseel wat die [Raad] Reguleerder op skriftelike aansoek van [bedoelde] sodanige produsent, vervaardiger 35 of houer kragtens artikel 49 goedkeur.
- (2) Geen lisensiehouer mag ’n ongeslypte diamant ontvang of koop nie elders as op—
- (a) die sakeperseel van ’n lisensiehouer;
- (b) ’n perseel wat as ’n [diamantbeurs] diamanhandelshuis ingevolge 40 hierdie [Hoofstuk geregistreer] Wet gelisensieer is;
- (bA) die perseel van enige diamantbeurs en -uitvoersentrum deur die Reguleerder ingevolge hierdie Wet ingestel;
- (bB) die perseel van die Staatsdiamanhandelaar; of
- [(c) die perseel in subartikel (1)(d) bedoel; of] 45
- (d) [die] sodanige ander perseel wat die [Raad] Reguleerder op skriftelike aansoek van die lisensiehouer kragtens artikel 49 goedkeur.”.

**Invoeging van artikel 48A in Wet 56 van 1986**

14. Die volgende artikel word hierby ná artikel 48 in die Hoofwet ingevoeg:

“Voorwaardes vir uitvoer van ongeslypte diamante

50

48A. Alle ongeslypte diamante bedoel vir uitvoerdoeleindes moet eers op die voorgeskrewe wyse by ’n diamantbeurs en -uitvoersentrum aangebied word.”.

**Amendment of section 57 of Act 56 of 1986**

16. Section 57 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every producer, manufacturer of synthetic diamonds, dealer[, **cutter or tool-maker**] or **diamond beneficiary** shall keep or cause to be kept the prescribed register, in which shall be entered the prescribed particulars in respect of unpolished diamonds and **polished synthetic diamonds.**”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) Every person required to keep a register in terms of subsection (1) shall retain the register for a period of at least **[two] five** years after the date on which the last entry was recorded therein.”.

**Substitution of section 59 of Act 56 of 1986**

17. The following sections are hereby substituted for section 59 of the principal Act:

**“Functions of Regulator in respect of buying and selling of diamonds** 15

**59. The Regulator shall—**

(a) implement, administer and control all matters relating to the purchase, sale, beneficiation, import and export of diamonds; and

(b) establish diamond exchange and export centres, which shall facilitate the buying, selling, export and import of diamonds and matters connected therewith. 20

**Functions of State Diamond Trader in respect of buying and selling of diamonds**

**59A. The State Diamond Trader shall—**

(a) acquire and supply unpolished diamonds to local diamond beneficiaries; and 25

(b) promote the diamond industry through the necessary research, support and development as deemed necessary from time to time.

**Diamond producers to offer unpolished diamonds to State Diamond Trader** 30

**59B. (1) (a)** The Minister shall from time to time by notice in the *Gazette* determine such percentage of diamonds produced in a production cycle as may be required for local beneficiation and that the State Diamond Trader may buy.

(b) The percentage contemplated in paragraph (a) may be based on carats and value, and shall be a representative sample of a production cycle of any diamond producer. 35

(2) At the end of every production cycle a diamond producer shall offer all the unpolished diamonds produced by him or her in that production cycle to the State Diamond Trader and specify the fair market value of those diamonds, to enable the State Diamond Trader to inspect such diamonds for the purpose of selecting diamonds for purchase as contemplated in subsection (1). 40

(3) The State Diamond Trader has one week after the verification contemplated in subsection (5) or the fixing of the price in terms of subsection (7) to buy diamonds up to the percentage contemplated in subsection (1). 45

(4) If the State Diamond Trader fails to buy the diamonds within the period contemplated in subsection (3) the producer may withdraw all his or her diamonds offered in terms of subsection (2). 50

(5) The government diamond valuator shall verify the prices specified in terms of subsection (2).

**Vervanging van artikel 50 van Wet 56 van 1986**

15. Artikel 50 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verwerking van diamante beperk tot goedgekeurde perseel**

**50.** (1) Behoudens [die bepalings van] hierdie artikel mag geen [slyper, gereedskapmaker] diamantveredelaar of navorser ’n diamant slyp of ’n ongeslypte diamant fynmaak of in enige gereedskap, werktuig of ander artikel monteer nie elders as op sy of haar sakeperseel. 5

(2) ’n [Slyper] Diamantveredelaar kan by die [Raad] Reguleerder aansoek doen om diamante te slyp op [die] sodanige ander perseel as sy of haar sakeperseel en vir die tydperk wat die [Raad] Reguleerder goedkeur. 10

(3) [Die bepalings van] Artikel 49 is *mutatis mutandis* van toepassing ten opsigte van ’n aansoek deur ’n [slyper] diamantveredelaar ingevolge subartikel (2).”.

**Wysiging van artikel 57 van Wet 56 van 1986**

16. Artikel 57 van die Hoofwet word hierby gewysig— 15

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Elke produsent, vervaardiger van sintetiese diamante, handelaar[, slyper of gereedskapmaker] of diamantveredelaar moet die voorgeskrewe register hou of laat hou waarin die voorgeskrewe besonderhede ten opsigte van ongeslypte diamante en geslypte sintetiese diamante aangeteken word”; en 20

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Elke persoon wat ’n register ingevolge subartikel (1) moet hou, moet die register behou vir ’n tydperk van minstens [twee] vyf jaar na die datum waarop die laaste aantekening daarin gemaak.”. 25

**Vervanging van artikel 59 van Wet 56 van 1986**

17. Artikel 59 van die Hoofwet word hierby deur die volgende artikels vervang:

**“Werksaamhede van Reguleerder ten opsigte van koop en verkoop van diamante**

**59.** Die Reguleerder moet— 30

(a) alle aangeleenthede betreffende die koop, verkoop, veredeling, invoer en uitvoer van diamante implementeer, administreer en beheer; en

(b) diamantbeurs en -uitvoersentrums instel wat die koop, verkoop, uitvoer en invoer van diamante en aangeleenthede wat daarmee in verband staan, fasiliteer. 35

**Werksaamhede van Staatsdiamanhandelaar ten opsigte van koop en verkoop van diamante**

**59A.** Die Staatsdiamanhandelaar moet—

(a) ongeslypte diamante verkry en aan plaaslike diamantveredelaars voorsien; en 40

(b) die bedryf bevorder deur die nodige navorsing, ondersteuning en ontwikkeling soos wat van tyd tot tyd nodig geag word.

**Diamantprodusente bied ongeslypte diamante aan Staatsdiamanhandelaar**

**59B.** (1) (a) Die Minister moet van tyd tot tyd by kennisgewing in die *Staatskoerant* sodanige persentasie van diamante vervaardig in ’n vervaardigingsiklus bepaal as wat vereis word vir plaaslike veredeling en wat die Staatsdiamanhandelaar kan koop. 45

(b) Die persentasie in paragraaf (a) beoog kan gebaseer wees op karaat en waarde, en moet ’n verteenwoordigende monster wees van ’n produksiesiklus van enige diamantprodusent. 50

(6) If the producer and the government diamond valuator cannot agree on the prices, the Regulator shall appoint an independent valuator acceptable to the producer.

(7) The independent valuator shall fix the price of the unpolished diamonds within five working days after appointment, which price shall be regarded as the fair market price of the unpolished diamond in question.

(8) The cost of such independent valuation shall be borne equally by the State Diamond Trader and the producer concerned.

(9) For the purposes of this section 'production cycle' means a period mutually agreed upon between the producer concerned and the State Diamond Trader before the commencement of a producer's operations or before the commencement of a new production cycle, as the case may be."

#### **Substitution of section 74 of Act 56 of 1986**

18. The following section is hereby substituted for section 74 of the principal Act:

#### **"Exemption from provisions relating to offering or registration of polished or unpolished diamonds**

74. The Minister may by notice in the Gazette exempt any person or category of persons from the provision of section 48A, 60 or 70 on such conditions as may be specified in the notice."

#### **Substitution of Arrangement of Sections of Act 56 of 1986**

19. The following Arrangement of Sections is hereby substituted for the Arrangement of Sections in the principal Act:

#### **"ARRANGEMENT OF SECTIONS**

##### *Sections*

#### **CHAPTER I**

#### **APPLICATION OF ACT**

1. Definitions
2. Provisions of this Act may be applied in respect of other minerals

#### **CHAPTER II**

#### **PART 1**

#### **SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR**

3. Establishment of South African Diamond and Precious Metals Regulator
4. Objects of Regulator
5. Functions of Regulator
6. Board of Regulator
7. Persons disqualified from being members of Board
8. Vacating of office by members of Board
9. Terms of office of members of Board
10. Meetings of Board
11. Committees of Board
12. Funds of Regulator
13. Persons in service of Regulator

(2) Aan die einde van elke vervaardigingsiklus moet 'n diamantprodusent al die ongeslypte diamante deur hom of haar in daardie vervaardigingsiklus vervaardig aan die Staatsdiamantheandelaar bied en die regverdige markwaarde van daardie diamante spesifiseer ten einde die Staatsdiamantheandelaar in staat te stel om sodanige diamante te inspekteer met die doel om diamante te selekteer vir koop soos beoog in subartikel (1). 5

(3) Die Staatsdiamantheandelaar het een week na die verifiëring beoog in subartikel (5) of die vasstelling van die prys ingevolge subartikel (7) om diamante te koop tot by die persentasie beoog in subartikel (1).

(4) Indien die Staatsdiamantheandelaar versuim om die diamante binne die tydperk beoog in subartikel (3) te koop, kan die produsent al sy of haar diamante aangebied ingevolge subartikel (2) onttrek. 10

(5) Die regeringsdiamantwaardeerder moet die pryse gespesifiseer ingevolge subartikel (2) verifieer.

(6) Indien die produsent en die regeringsdiamantwaardeerder nie oor die pryse kan ooreenkom nie, moet die Reguleerder 'n onafhanklike waardeerder aanstel wat vir die produsent aanvaarbaar is. 15

(7) Die onafhanklike waardeerder moet die prys van die ongeslypte diamante binne vyf werkdade na aanstelling vasstel, welke prys beskou moet word as die billike markprys van bedoelde ongeslypte diamante. 20

(8) Die koste van sodanige onafhanklike waardasie sal gelyk gedra word deur die Staatsdiamantheandelaar en die betrokke produsent.

(9) Vir doeleindes van hierdie artikel beteken 'vervaardigingsiklus' 'n tydperk waarop wedersyds ooreengekom is tussen die betrokke produsent en die Staatsdiamantheandelaar voor die aanvang van 'n produsent se bedrywighede of voor die aanvang van 'n nuwe vervaardigingsiklus, na gelang van die geval.". 25

#### Vervanging van artikel 74 van Wet 56 van 1986

18. Artikel 74 van die Hoofwet word hierby deur die volgende artikel vervang:

“Vrystelling van bepalinge betreffende aanbod of registrasie van geslypte of ongeslypte diamante 30

74. Die Minister kan by kennisgewing in die *Staatskoerant* enige persoon of kategorie persone vrystel van die bepaling van artikel 48A, 60 of 70 op sodanige voorwaardes as wat in die kennisgewing gespesifiseer word.”. 35

#### Vervanging van Indeling van Artikels van Wet 56 van 1986

19. Die Indeling van Artikels van die Hoofwet word hierby deur die volgende Indeling van Artikels vervang:

#### “INDELING VAN ARTIKELS

*Artikels*

#### HOOFSTUK I

#### TOEPASSING VAN WET

1. Omskrywings
2. Bepalings van hierdie Wet kan toegepas word ten opsigte van ander minerale

#### HOOFSTUK II

#### DEEL 1

#### SUID-AFRIKAANSE DIAMANT- EN EDELMETAALREGULEERDER

3. Instelling van Suid-Afrikaanse Diamant- en Edelmetaalreguleerder

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| 21. Dealing in unpolished diamonds restricted        | 20 |
| 22. Processing of diamonds prohibited                |    |
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**SCHEDULE** 10**Substitution of long title of Act 56 of 1986**

20. The following long title is hereby substituted for the long title of the principal Act: <b><u>“To provide for the establishment of the South African Diamond and Precious Metals Regulator and for the establishment of the State Diamond Trader; for control over the possession, the purchase and sale, the processing, the local beneficiation and the export of diamonds; and for matters connected therewith.”</u></b>	15
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**Short title**

21. This Act is called the Diamonds Second Amendment Act, 2005, and comes into operation on a date fixed by the President by proclamation in the <i>Gazette</i> .	20
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|--|---|
| <ul style="list-style-type: none"> <li>86. Misdrywe waarby bedrieglike optrede betrokke is</li> <li>87. Strawwe</li> <li>90. Aanspreeklikheid van werkgewer of prinsipaal</li> <li>91. Verbeuring</li> <li>92. Jurisdiksie van landdroshowe</li> </ul> | 5 |
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- |   |    |
|---|----|
| <ul style="list-style-type: none"> <li>93. Heffings</li> <li>94. Samewerking met ander regerings en liggame</li> <li>95. Regulasies</li> <li>96. Oorlegpleging deur Reguleerder</li> <li>97. Opdrag van werksaamhede</li> <li>98. Wysiging of herroeping van wette, en voorbehoud</li> <li>99. Kort titel en inwerkingtreeding</li> </ul> | 10 |
|---|----|

### BYLAE".

15

#### Vervanging van lang titel van Wet 56 van 1986

20. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:  
 “Om voorsiening te maak vir die instelling van die Suid-Afrikaanse Diamant- en Edelmetaalreguleerder en vir die instelling van die Staatsdiamanhandelaar; vir beheer oor die besit, die koop en verkoop, die verwerking, die plaaslike veredeling en die uitvoer van diamante; en vir aangeleenthede wat daarmee in verband staan.”

20

#### Kort titel

21. Hierdie Wet heet die Tweede Wysigingswet op Diamante, 2005, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.