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REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

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## THE PRESIDENCY

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No. 395      21 April 2006

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

**No. 37 of 2005: Precious Metals Act, 2005.**

## IHHOVISI LIKAMONGAMELI

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Ino 395      21 April 2006

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzo-shicilelelwa umphakathi:—

**Ino. 37 Ka 2005: Umthetho wokusaNsimbi eyiGugu, ka-2005.**

(English text signed by the President.)  
(Assented to 15 April 2006.)

# ACT

**To provide for the acquisition, possession, smelting, refining, beneficiation, use and disposal of precious metals; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

## Definitions

1. In this Act, unless the context indicates otherwise—
  - “**authorised dealer**” means a person authorised by the National Treasury to deal 5  
in gold;
  - “**jeweller’s permit**” means a permit contemplated in section 9(1);
  - “**Minister**” means the Minister of Minerals and Energy;
  - “**minted bar**” means a minted bar contemplated in section 23(1)(e);
  - “**National Commissioner**” means the National Commissioner of the South 10  
African Police Service or any person designated by that Commissioner;
  - “**precious metal**” means—
    - (a) the metal gold, any metal of the platinum group and the ores of such  
metals; and
    - (b) any other metal that the Minister has declared by notice in the *Gazette* to 15  
be a precious metal for the purposes of this Act, and the ores of any such  
metal;
  - “**precious metal beneficiation licence**” means a licence contemplated in section  
8(1);
  - “**prescribed**” means prescribed by regulation made in terms of section 23; 20
  - “**producer**” means any person who holds a permit or right to prospect for or mine  
precious metals in terms of the Mineral and Petroleum Resources Development  
Act, 2002 (Act No. 28 of 2002);
  - “**refined precious metal**” means precious metal that has been refined to or beyond 25  
99,9% purity;
  - “**refining licence**” means a licence contemplated in section 7(1);
  - “**Regulator**” means the South African Diamond and Precious Metals Regulator  
established by section 3(1) of the Diamonds Act, 1986 (Act No. 56 of 1986);
  - “**semi-fabricated precious metal**” means refined precious metal that is in the  
form of sheet, tube, wire, granule, plate, strip, rod, or sponge (including carat gold 30  
alloys as prescribed), or such other refined precious metal as may be prescribed;
  - “**this Act**” includes any regulation made in terms of section 23;
  - “**unwrought precious metal**” means—

(English text signed by the President.)  
(Assented to 15 April 2006.)

# UMTHETHO

**Kulungiselelwa ukutholakala, ukuba nakho, ukuncibilikisa, ukucolisa, ukunikeza abafanele, ukusetshenziswa kanye nokuchithwa kokusansimbi eyigugu; kanye nokubhekela okunye okuhambisana nalokhu.**

**M**AKUMISWE yiPhalamende laseRiphabhuliki yaseNingizimu Afrika ngokulandelayo:—

## Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi ikhomba okunye—
  - “**umthengisi osemthethweni**” usho umuntu onikezwe amandla okuthengisa noma ukusebenza ngegolide nguSikhwama kaZwelonke; 5
  - “**imvume yomthengisi wobucwebecwebe(ijuwela)**” isho imvume okukhulunywa ngayo esigabeni sesi-9(1);
  - “**UNgqongqoshe**” usho uNgqongqoshe wezokuMbiwa naMandla;
  - “**insimbi egxotshiwe**” isho insimbi egxotshiwe okukhulunywa ngayo esigabeni 10 23(1)(e);
  - “**uKhomishani kaZwelonke**” kusho uKhomishani kaZwelonke wamaPhoyisa aseNingizimu Afrika noma yimuphi umuntu obekwe uKhomishani loyo;
  - “**Okusansimbi eyigugu**” kusho—
    - (a) okusansimbi kwegolide, nanoma yikuphi okunye okusansimbi kweqembu 15 lepulathinamu (platinum) kanye nensimbi esaxubene netshe; kanye
    - (b) nanoma yikuphi okusansimbi uNgqongqoshe amemezele ukuthi iyinsimbi eyigugu ngesaziso ePhephabhukwini loMbuso iGazethi ngenhloso yalo Mthetho, kanye nensimbi esaxubene netshe yalokho okusansimbi;
  - “**ilayisensi yokunikeza ubunikazi yokusansimbi eyigugu**” isho ilayisensi 20 okukhulunywa ngayo esigabeni se-8(i);
  - “**okunqunyiwe**” kushiwo okunqunywe ngumthethonkambiso omiswe ngokusho kwesigaba 23;
  - “**umkhiqizi**” usho noma yimuphi umuntu onemvume noma ilungelo lokuhlola ukumbiwa kokusansimbi eyigugu ngokulandela uMthetho wokuThuthukisa 25 Imithombo yezokuMbiwa nePhetholiyamu ka-2002 (uMthetho ongunombolo 28 ka-2002);
  - “**Okusansimbi eyigugu engacolisisiwe**” kusho okusansimbi eyigugu okucolisisiwe kwahlanzeka kwaba sezingeni elingama-99,9% noma ngaphezulu;
  - “**ilayisensi yokucolisisa**” kushiwo ilayisensi okukhulunywa ngayo esigabeni 30 7(1);
  - “**uMlawuli**” usho uMlawuli wamaDayimani kanye nokusansimbi eyigugu kwaseNingizimu Afrika omiswe ngokwesigaba 3(1) soMthetho wamaDayimane, ka-1986 (uMthetho ongunombolo 56 ka1986);
  - “**Okusansimbi eyigugu elungiswe ngokungaphelele**” kusho okusansimbi 35 eyigugu okucolisisiwe kwaba sesimweni somdwehu, ishumbu, ucingo, uhlamvu, intanjana noma umucu, umgxusha noma isiponji (kumbandakanywa nesilinganiso segolide njengoba kunqunyiwe); noma okunye okusansimbi eyigugu okucolisisiwe okunqunywe uMlawuli;
  - “**Lo Mthetho**” kumbandakanywa noma yimuphi umthethonkambiso omiswe 40 ngokusho kwesigaba 23;
  - “**Okusansimbi eyigugu engabunjiwe**” kushiwo—

- (a) precious metal that—
- (i) is unrefined (including concentrate and matte), or has been refined to a purity less than 99,9% and has not undergone any manufacturing process other than being refined or formed into a bar (but not a minted bar), an ingot, a button, plate, sponge, powder, granules, (excluding granules made from precious metal that has been refined to or beyond 99,9% purity, and carat gold alloys), solution; or
  - (ii) is prescribed as any substance, material or product of similar form to any such substance, material or product listed in paragraph (a)(i); or
- (b) any article or substance containing or consisting of precious metal contemplated in paragraph (a),
- but does not include any article that is of archaeological interest or that has been processed or manufactured for one or more specific industrial, professional or artistic uses.

### Objects of Regulator

2. The objects of the Regulator are to—
- (a) ensure that the precious metal resources of the Republic are exploited and developed in the best interest of the people of South Africa;
  - (b) promote equitable access to, and local beneficiation of, the Republic's precious metals;
  - (c) promote the sound development of precious metal enterprises in the Republic; and
  - (d) advance the objectives of the broad-based socio-economic empowerment as prescribed.

### Functions of Regulator

3. (1) The Regulator shall—
- (a) implement, administer and control all matters relating to acquisition, possession, smelting, refining, fabrication, use and disposal of precious metals;
  - (b) advise the Minister on any matter to which this Act relates referred to it by the Minister; and
  - (c) in general perform such acts as may be necessary or expedient for the achievement of its objects.
- (2) The Regulator may—
- (a) enter into an agreement with any person, including the State, for the performance of any particular act or particular work or the rendering of any particular services;
  - (b) from time to time make recommendations to the Minister on any matter to which this Act relates; and
  - (c) appoint any person in its service as an Inspector to perform the prescribed functions of Inspectors.

### Prohibitions relating to acquisition, possession or disposal of unwrought precious metal

4. (1) Save as is otherwise provided in this Act, no person may acquire, possess or dispose of, either as principal or as agent, any unwrought precious metal, unless—
- (a) he or she is the holder of a refining licence and acts in accordance with the terms and conditions of his or her licence;
  - (b) he or she is an authorised dealer;
  - (c) he or she is a producer who has won or recovered such unwrought precious metal;

- (a) Okusansimbi eyigugu
- (i) okenzacolisisiwe (kumbandakanywa ukuqoqana nokubumbana), noma okucolisisiwe kwaba sezingeni elingaphansi kwama-99,9% futhi kungakafakwa enqubeni yokwakhiwa noma ukukhiqizwa ngaphandle kokucolisisiwe noma kwenziwe insimbi (kodwa hayi insimbi egxotshiwe), isigaxa sensimbi/segolide, inkinobhu, ucingo, ipuleti, isiponji, okusampushana, izinhlamvu, (ngaphandle kwezinhlamvu ezenziwe ngokusansimbi okuhluziwe kwaba sezingeni elingama-99,9% noma ngaphezulu, nesilinganiso segolide) okuxutshiwe; noma
- (ii) okumiswe njengesithako, into ebonakalayo noma umkhiqizo walolohlobo, into ebonakalayo noma umkhiqizo obalwe ohlwini lwendima (a)(ii); noma
- (b) nanoma iyiphi into noma isithako esiqukethe noma esinokusansimbi eyigugu okukhulunywa ngakho endimeni (a) kodwa lokhu akumbandakanyi nanoma iyiphi into enokwenza ngezinto zakudabuka noma eyenziwe noma yakhiqizelwa ukusetshenziselwa okukodwa noma okuningi kwezimbongi, ezobungcweti noma ukusetshenziselwa ubuciko.

### Okuphokophelwe ngoMlawuli (Regulator)

2. Okuphokophelwe noma izinhloso ngoMlawuli yilezi:
- (a) ukuqinisekisa ukuthi imithombo yokusansimbi eyigugu kwaseNingizimu Afrika isetshenziswa futhi ithuthukiswa ngendlela enenzuzo noma ezozuzisa abantu baseNingizimu Afrika;
- (b) ukukhuthaza ukutholakala ngokulinganayo nokuzuzwa kwabantu bendawo ngokusansimbi eyigugu kweRiphabhulikhi;
- (c) ukukhuthaza ukuthuthuka ngendlela eyiyo kwamabhizimisi okusansimbi eyigugu eRiphabhulikhi; kanye
- (d) ukuqhuba izinhloso zokufukulwa ngokwezomnotho nenhlalo okubanzi njengoba kunqunywe.

### Imisebenzi yoMlawuli

3. (1) Umlawuli uyokwenza lokhu—
- (a) ukusebenzisa, ukuphatha nokulawula zonke izindaba eziphathelele nokutholakala, ukuba nakho, ukucibikaliswa, ukucoliswa, ukulungiswa, ukusetshenziswa nokuchithwa kokusansimbi eyigugu;
- (b) ukwaluleka uNgqongqoshe nganoma yiluphi undaba oluphathelele noma okukhulunywa ngalo kuloMthetho oludluliselwe kuye nguNgqongqoshe; kanye
- (c) jikelele, ukwenza yonke imisebenzi edingekayo noma ebalulekile ukuze kufezeke izimpokophelo zakhe.
- (2) Umlawuli angenza lokhu—
- (a) ukwenza isivumelwano nanoma imuphi umuntu, kumbandakanywa noHulumeni sokuba kwenziwe okuthile noma umsebenzi othile noma ukuqhuba umsebenzi othile;
- (b) ngezikhathi ezithile enze izincomo kuNgqongqoshe mayelana nanoma iluphi undaba oluphathelele naloMthetho; kanye
- (c) ukuqoka noma imuphi umuntu osebenzela yena uMlawuli ukuba abe nguMhloli enze umsebenzi onqunywe ukuba wenziwe ngumhloli.

### Ukuvinjelwa okuphathelele nokuthola, ukuba nakho noma ukuchithwa kokusansimbi eyigugu engabunjiwe

4. (1) Ngaphandle uma loMthetho usho okunye, akekho umuntu ongathola, abe nakho noma achithe lokhu, noma njengenhloko noma isithunywa, noma yikuphi okusansimbi eyigugu, ngaphandle uma—
- (a) enelayisensi yokucwenga futhi elandela izimo nemibandela yelayisensi yakhe;
- (b) engumthengisi ogunyaziwe;
- (c) engumkhiqizi ozuze noma ozitholele lokho Okusansimbi eyigugu engabunjiwe;

- (d) he or she has obtained a certificate from the Regulator authorising him or her to acquire or to dispose of such unwrought precious metal;
- (e) such unwrought precious metal does not exceed a prescribed mass and is acquired in accordance with a special permit issued by the Regulator for scientific or beneficiation purposes or to make jewellery; or 5
- (f) he or she is the holder of a precious metal beneficiation licence and acts in accordance with the terms and conditions of his or her licence;

(2) The Regulator may only issue a certificate contemplated in subsection (1)(d) to a person in consultation with the National Treasury, in the case of gold, and the National Commissioner. 10

(3) No person may have in his or her possession any unwrought precious metal unless he or she is—

- (a) a person contemplated in subsection (1); or
- (b) in possession of such precious metal in fulfilment of a contract of employment with any person contemplated in subsection (1). 15

(4) No person may deliver unwrought precious metal in payment of any debt owed by him or her or any other person or in consideration of any service rendered or to be rendered to him or her or any other person.

(5) Only a person contemplated in subsection (1)(a), (c), (e) or (f) may make up, smelt or change the form of any unwrought precious metal in his or her possession in terms of that subsection. 20

#### **Prohibitions relating to acquisition, possession or disposal of semi-fabricated precious metal**

5. (1) Save as is otherwise provided for in this Act, no person may acquire, possess or dispose of, either as principal or as agent, any semi-fabricated precious metal, unless— 25

- (a) he or she is the holder of a refining licence and acts in accordance with the terms and conditions of his or her licence;
- (b) he or she is an authorised dealer;
- (c) he or she is a producer who has won or recovered the unwrought precious metal which has been refined and made into such semi-fabricated precious metal; 30
- (d) he or she has obtained a certificate from the Regulator authorising him or her to acquire or to dispose of such semi-fabricated precious metal;
- (e) such semi-fabricated precious metal does not exceed a prescribed mass and is acquired in accordance with a special permit issued by the Regulator for scientific purposes; 35
- (f) he or she holds a precious metals beneficiation licence; or
- (g) he or she holds a jeweller's permit.

(2) No person may have in his or her possession any semi-fabricated precious metal unless he or she is— 40

- (a) a person contemplated in subsection (1); or
- (b) in possession of such precious metal in fulfilment of a contract of employment with any person contemplated in subsection (1).

#### **Consideration of applications and principles of administrative justice**

6. (1) In considering an application for any licence, permit or certificate the Regulator— 45

- (a) must have regard to the promotion of equitable access to and the orderly local beneficiation of precious metal;
- (b) must have regard to the requirements of the broad-based socio-economic empowerment Charter developed in terms of section 100 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); and 50
- (c) may conduct such investigation regarding the application as it may deem fit

(2) Any administrative process conducted or decision taken in terms of this Act must

- (d) esethole isitifiketi kuMlawuli esimnikeza igunya lokuthola noma ukuchitha okusansimbi eyigugu engabunjiwe;
- (e) lokho okusansimbi eyigugu engabunjiwe kungadluli isisindo esinqunyiwe futhi kutholakale ngokulandela imvume ekhishwe nguMlawuli ngenhloso yokuzuzisa noma yezesayensi noma ukwenza ubucwebecwebe; noma 5
- (f) ephethe noma enelayisensi yokunikwa okusansimbi eyigugu futhi enza noma elandela izimiso nemibandela yelayisensi yakhe.
- (2) UMlawuli anganikeza kuphela isitifiketi okukhulunywa ngaso kusigatshana (1)(d) kumuntu ngokuxhumana noSikhwama kaZwelonke, kanti uma kuphathelene negolide, kanye noKhomishani kaZwelonke. 10
- (3) Akekho umuntu ongaba nokusansimbi eyigugu engabunjiwe ngaphandle kokuthi lowo muntu—
- (a) eyilowo muntu okukhulunywa ngaye esigabeni (1); noma
- (b) abe enalokho okusansimbi eyigugu ngokugcwalisa noma ngokuhambisana nesivumelwano sokusebenzela omunye umuntu okukhulunywa ngaye 15 esigabeni (1).
- (4) Akekho umuntu ongethula noma alethe okusansimbi eyigugu engabunjiwe ukuze akhokhe isikweletu sakhe, noma sanoma yimuphi omunye umuntu noma ngokubhekela insiza ayinikeziwe noma okumele kwenziwe nguye noma nanoma yimuphi omunye umuntu. 20
- (5) Ngumuntu okukhulunywa ngaye kulezi zigatshana (1)(a), (c), (e) noma (f) kuphela engakwazi ukwenza, ukuncibilikisa noma ukuguqula uhlobo lwanoma yikuphi okusansimbi eyigugu engabunjiwe anakho ngokulandela okushiwe kulezo zigatshana.

#### **Ukuvinjelwa okuphathelene nokuthola, ubunini noma ukulahlwa kokusansimbi eyigugu engalungiswe ngokuphelele** 25

5. (1) Ngaphandle uma loMthetho usho okunye akekho umuntu ongathola, abe noma achithe, njengenhloko noma isithunywa, noma yikuphi okusansimbi eyigugu okulungiswe ngokungaphelele, ngaphandle uma—
- (a) enelayisensi yokucwenga futhi elandela izimo nemibandela yelayisensi yakhe; 30
- (b) engumthengisi ogunyaziwe;
- (c) engumkhiqizi onqobe noma othole lokhu okusansimbi eyigugu engabunjiwe okucwengiwe kwenziwa okusansimbi eyigugu okungalungisiwe ngokuphelele;
- (d) ethole isitifiketi kuMlawuli esimgunyaza ukuba athole noma achithe okusansimbi eyigugu engalungisiwe ngokuphelele; 35
- (e) lokho okusansimbi eyigugu engalungisiwe ngokuphelele kungedluli isisindo esinqunyiwe futhi kutholakale ngemvume ekhethekile enikezwe nguMlawuli ngezinhloso zesayensi;
- (f) enelayisense yokuzusa okusansimbi eyigugu; noma 40
- (g) enemvume yokuba ngumenzi wobucwebecwebe.
- (2) Akekho umuntu ongaphatha okusansimbi eyigugu engabunjiwe ngaphandle kokuthi engumuntu—
- (a) okukhulunywa ngaye esigatshaneni (1); noma
- (b) ephethe lokho okusansimbi eyigugu ngokugcwalisekisa isivumelwano sokusebenzela noma yimuphi umuntu okukhulunywa ngaye esigatshaneni (1). 45

#### **Ukubhekwa kwezicelo kanye nezimiso zokuphatha ngobulungiswa**

6. (1) Ukubhekwa kwesicelo sanoma iyiphi ilayisensi, imvume noma isitifiketi uMlawuli— 50
- (a) kufanele akhumbule ukukhuthazwa kokutholakala ngokulinganayo kanye nokuzusa kwabantu bendawo ngokusansimbi eyigugu;
- (b) kufanele akhumbule izidingo zoMqulu wokufukulwa ngokwezomnotho nenhlalo okubanzi okumiswe ngokulandela okushiwo isigaba 100 soMthetho wokuThuthukisa Imithombo yezokuMbiwa nePhetholiyamu ka-2002 (uMthetho onguNombolo 28 ka-2002); futhi 55
- (c) angenza uphenyo mayelana nesicelo uma ebona kufanele.
- (2) Noma iyiphi inqubo yokuphatha eyenziwe noma isinqumo esithathwe ngokulandisa kwaloMthetho kumele kwenziwe noma kuthathwe ngokulandela

be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless otherwise provided for in this Act.

### Issue and renewal of refining licences

7. (1) The Regulator may, after consultation with the National Treasury, in the case of gold, and the National Commissioner, issue to any person, in the prescribed form and for a period not exceeding 30 years, a refining licence entitling the holder to do such 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 person contemplated in section 2(1);
- (b) to buy or receive semi-fabricated precious metal from the South African Mint or any person contemplated in section 3(1);
- (c) to smelt, refine or change the form of unwrought precious metal in his or her lawful possession and thereafter to dispose of such precious metal—
  - (i) in accordance with the terms and conditions of his or her licence and the provisions of this Act to the South African Mint or any person contemplated in section 4(1)(a), (b), (d), (e) or (f); or
  - (ii) in semi-fabricated form to any person contemplated in section 5(1) (a), (b), (d), (e), (f) or (g);
- (d) to extract precious metal from any material, substance or solution in his or her lawful possession and to dispose of such precious metal in accordance with the terms and conditions of his or her licence and the provisions of this Act;
- (e) to buy or receive from the holder of a refining licence or a precious metal beneficiation licence, an authorised dealer or a producer, any material, substance or solution in the lawful possession of that holder, authorised dealer or producer containing precious metal and to extract from such material, substance or solution precious metal and to dispose of the precious metal in accordance with the terms and conditions of his or her licence and the provisions of this Act; or
- (f) to import any unwrought or semi-fabricated precious metal into the Republic subject to the terms and conditions of his or her licence.

(2) Any person who is refused a refining licence may, within 30 days after having been notified by the Regulator of the refusal, appeal in the prescribed manner to the Minister who may—

- (a) dismiss the appeal;
- (b) direct the Regulator to issue such a licence to that person, subject to the succeeding provisions of this section; or
- (c) make any other order he or she deems fit.

(3) Before the Regulator issues a refining licence the applicant for the licence must pay the prescribed fee.

(4) A refining licence terminates in accordance with the terms and conditions under which it was issued.

(5) The holder of a refining licence may not carry on any activity authorised by the licence elsewhere than on the premises or at the place described on the licence or described in any endorsement of that licence in terms of subsection (6), and the holder may not be in possession of unwrought precious metal at any place elsewhere than on the premises or at the place so described unless he or she is transporting such unwrought precious metal in accordance with section 11.

(6) (a) If at any time it becomes necessary for the holder of a refining licence to transfer or extend the activities contemplated in subsection (5) to any premises or place not described on his or her licence the Regulator, after consultation contemplated in subsection (1), may endorse on the licence the situation of such new or additional



uMthetho WokuKhuthaza ukuPhatha ngoBulungiswa ka-2000 (uMthetho onguNombolo 3 ka-2000), ngaphandle uma loMthetho usho okunye.

### Ukukhishwa nokuvuselelwa kabusha kwamalaysensi okucwenga

7. (1) UMlawuli , ngemuva kokuxhumana noSikhwama kaZwelonke, kanti uma kuphathelene negolide, kanye noKhomishani kaZwelonke, angakhipha anikeze noma imuphi umuntu, ngefomu elinqunyiwe futhi kube isikhathi esingevile eminyakeni engu-30, ilayisensi yokucwenga enikeza oyiphethe imvume yokunye kokulandelayo, okungabalulwa kuleyo layisense, okuyilokhu—
- (a) ukuthenga noma ukuthola okusansimbi eyigugu engabunjiwe nganoma yisiphi isimo kuMkhiqizi wensimbi eNingizimu Afrika noma kunoma yimuphi umuntu okukhulunywa ngaye esigabeni 2(1);
- (b) ukuthenga noma ukuthola okusansimbi eyigugu engalungisiwe ngokuphelele kuMkhiqizi wensimbi eNingizimu Afrika noma kunoma yimuphi umuntu okukhulunywa ngaye esigabeni 3(1);
- (c) ukunabilikisa ukucwenga noma ukuguqula isimo sokusansimbi eyigugu engabunjiwe anakho ngokusemthethweni bese ekhipha noma athengise lokho okusansimbi eyigugu—
- (i) ngokulandela izimo nemibandela yelayisensi yakhe nokushiwo yiloMthetho kuMkhiqizi wensimbi eNingizimu Afrika noma yinoma yimuphi umuntu okukhulunywa ngaye esigabeni 4(1)(a), (b), (d), (e) noma (f); noma
- (ii) ohlotsheni lokubunjwe ngokungaphelele kumuntu okukhulunywa ngaye esigabeni 5(1)(a), (b), (d), (e), (f) noma (g).
- (d) ukukhipha okusansimbi eyigugu kunoma iyiphi into noma okuxutshiwe anakho ngokusemthethweni bese echitha noma ethengisa lokho okusansimbi eyigugu ngokulandela izimo nemibandela yelayisense nokushiwo yiloMthetho;
- (e) ukuthenga noma ukuthola kulowo onelayisensi yokucwenga noma onelayisensi yokuzuzwa ngokusansimbi eyigugu, umthengisi ongunya noma umkhiqizi noma iyiphi into noma okuxutshiwe anakho ngokusemthethweni, umthengisi ogunyaziwe, noma umkhiqizi onokusansimbi eyigugu futhi akhiphe kuleyonto noma okuxutshiwe okusansimbi eyigugu bese echitha noma athengise lokho okusansimbi eyigugu ngokuhambisana nezimiso nemibandela yelasensi yakhe nokushiwo yiloMthetho; noma
- (f) ukuthenga kwamanye amazwe okusansimbi eyigugu okungabunjiwe noma okungalungisiwe ngokuphelele akulethe lapha eRiphabhuliki ngaphansi kwezimiso nemibandela yelayisensi yakhe.
- (2) Noma yimuphi umuntu owenqatshelwe ukunikezwa ilayisensi yokucwenga, ezinsukwini ezingu-30 ngemuva kokwaziswa nguMlawuli ngokwenqatshwa, angafaka isikhalo ngendlela enqunyiwe kuNgqongqoshe, yena anga—
- (a) chitha lesi sikhalo;
- (b) angayalela uMlawuli ukuthi anikeze lowo muntu ilayisensi, ngokuhambisana nokushiwo lapha ngezansi kulesi sigaba; noma
- (c) enze noma yisiphi isinqumo angabona sifanele.
- (3) Ngaphambi kokuba uMlawuli anikeze ilayisensi yokucwenga ofake isicelo selayisensi kumele akhokhe izindleko ezinqunyiwe.
- (4) Ilayisensi yokucwenga iyaphela ngokulandela izimo nemibandela eyakhishwa phansi kwazo.
- (5) Lowo onelayisense yokucwenga angakwazi ukwenza yinoma yimuphi umsebenzi ogunyazwe yilayisensi kunoma iyiphi enye indawo noma endaweni yokusebenzela echazwe elayisensini noma echazwe yimvume eyengezelwe elayisensini ngokusho kwesigatshana (6), futhi lowo onelayisensi angeze atholakala ephethe noma enokusansimbi eyigugu kunoma yiphi indawo ngaphandle kwasendaweni yakhe yokusebenzela noma endaweni echaziwe ngaphandle uma ethutha okusansimbi eyigugu engabunjiwe ngokuhambisana nokushiwo isigaba se-11.
- (6) (a) Uma kwenzeka noma ngasiphi isikhathi kuba nesidingo sokuthi lowo onelayisensi yokucwenga yokudlulisa noma ukwandisa imisebenzi okukhulunywa ngayo esigatshaneni (5) kunoma iyiphi indawo yokusebenzela noma indawo engachaziwe kulayisensi yakhe uMlawuli, ngemuva kokuxhumana okukhulunywa ngakho esigabeni (1), angabhala kulayisensi yalowo muntu leyo ndawo entsha

premises or place and must forthwith in writing notify the National Treasury and the National Commissioner, as the case may be, of the endorsement.

(b) An endorsement contemplated in paragraph (a) does not allow the holder of the refining licence to conduct business from the additional premises or place under a name that differs from the name used on the existing premises or place. 5

(c) If the holder of the refining licence wishes to conduct business from any other premises or place under a name that differs from the name used on the existing premises or place, he or she must apply for a new licence in respect of the additional premises or place.

(7) (a) The Regulator, after consultation contemplated in subsection (1), may renew 10 a refining licence for further periods of up to 30 years each upon payment of the prescribed fee if an application for such renewal is made at least 30 days before the expiration of the licence.

(b) Subsection (2) applies with the necessary changes in connection with the refusal 15 by the Regulator of any application in terms of paragraph (a).

(8) Whenever—

(a) any application under subsection (7) for the renewal of a refining licence is refused by the Regulator and no review of or appeal against such refusal is lodged or any review or appeal so lodged is dismissed;

(b) any refining licence has expired and no application for its renewal has been 20 made by the holder thereof;

(c) any refining licence has been cancelled under this Act; or

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

the person who held the licence must forthwith submit to the Regulator a solemn 25 declaration of the mass of any unwrought precious metal in his or her possession at the date such licence expired or was refused or cancelled or such activities were discontinued, and must dispose of such unwrought precious metal in accordance with this Act within 30 days after the date of such declaration or within such longer period as the Regulator may allow.

(9) The holder of a refining licence issued in terms of this section must forthwith and 30 in writing advise the Regulator of any unlawful conduct relating to precious metals in which he was asked or approached to participate or which he was asked to facilitate.

#### **Issue and renewal of precious metal beneficiation licence**

8. (1) The Regulator may issue to any person, in the prescribed form and for a period 35 not exceeding 10 years, a precious metal beneficiation licence entitling the holder to do such of the following, as may be specified in the licence, namely—

(a) to buy or receive unwrought or semi-fabricated precious metal in any form from any person authorised under this Act to sell, deal in or dispose of unwrought or semi-fabricated precious metal;

(b) to make up, change the form or add value in any other manner to any 40 unwrought or semi-fabricated precious metal in his or her lawful possession; or

(c) to dispose of any unwrought or semi-fabricated precious metal in his or her lawful possession.

(2) Any person who is refused a precious metal beneficiation licence may, within 30 45 days after having been notified by the Regulator of the refusal, appeal in the prescribed manner to the Minister who may—

(a) dismiss the appeal;

(b) direct the Regulator to issue such a licence to that person, subject to the 50 succeeding provisions of this section; or

(c) make any other order he or she deems fit.

(3) Before the Regulator issues a precious metal beneficiation licence the applicant for the licence must pay the prescribed fee.

eyengeziwe kanti kufanele abhale ngokushesha azise uSikhwama kaZwelonke noKhomishani kwaZwelonke ngaleyo ndawo entsha eyengezelwe.

(b) Ukwengezelelwa kwemvume okukhulunywa ngakho endimeni (a) akuvumeli lowo onelayisensi lokucwenga ukuba aqhube umsebenzi wakhe kulendawo entsha eyengeziwe noma ngegama elehlukile kuleli laleyo ndawo ekhona yokusebenzela. 5

(c) Uma lowo onelayisensi yokucwenga efisa ukwenza umsebenzi kunoma iyiphi enye indawo ngaphansi kwegama elehlukile kulelo elisetshenizwa endaweni akuyo, kufanele afake isicelo selayisensi entsha ngokuhambisana nendawo noma indawo yokusebenzela eyengeziwe.

(7) (a) Ngemuva kokuxhumana okukhulunywa ngakho esigatshananeni (1), uMlawuli angavuselela ilayisensi yokucwenga esinye isikhathi esingafika eminyakeni engu-30, ngokukhokha imali enqunyiwe unyaka nonyaka uma kufakwe isicelo sokuvuselela lokho kusasele okungenani izinsuku ezingu-30 ngaphambi kokuba ilayisensi iphelelwe isikhathi. 10

(b) Isigatshana (2) siyosebenza, kuyokwenziwa izinguquko ezidingekayo, odabeni oluphatelene nokwenqatshwa noma ukuchithwa nguMlawuli kwanoma isiphi isicelo selayisensi njengoba kushiwo endimeni (a). 15

(8) Uma—

(a) UMlawuli enqaba noma echitha noma isiphi isicelo sokuvuselela ilayisensi yokucwenga esenziwe ngokwesigatshana (7) futhi kungabi nokubuyekzwa noma isikhalo esifakiwe maqondana nalokhu kwenqatshwa, noma, yinoma yikuphi ukubuyekzwa noma isikhalo ezinjalo sizochithwa; 20

(b) noma iyiphi ilayisensi yokucwenga iphelelwe yisikhathi futhi kungazange kufakwe isicelo sokuyivuselela kabusha ngoyiphethe;

(c) noma iyiphi ilayisensi esuliwe ngaphansi kwaloMthetho; noma 25

(d) imisebenzi egunyazwe yileyo layisensi imiswa ngqi noma ingasaqhutshwa lowo muntu obenelayisensi kufanele ngokushesha athumele kuMlawuli isimemezelo esifungelwe sesisindo sokusansimbi eyigugu engabunjiwe anayo ngosuku okuphele ngaso isikhathi selayisensi noma yenqatshelwa noma isulwa noma imisebenzi enjena yamiswa, futhi kumele alahle noma achithe lokho okusansimbi eyigugu ngokuhambisana noMthetho zingakapheli izinsuku ezingama-30 ngemuva kwesimemezelo leso noma esinye isikhathi eside esingamiswa uMlawuli. 30

(9) Lowo ophethe ilayisensi yokucwenga ekhishwe ngaphansi kwalesi sigaba kufanele ngokushesha abhale azise uMlawuli ngokuziphatha okungekho emthethweni okuphatelene nokusansimbi eyigugu anxuswe noma acelwe ukuba abambe kukho iqhaza noma anxuswe ukuba akwenze lula. 35

#### **Ukukhishwa nokuvuselela kabusha kwelayisense yokunikeza ubunini bokusansimbi eyigugu**

8. (1) UMlawuli anganikeza noma yimuphi umuntu, ngefomu elinqunyiwe futhi isikhathi ezingevile eminyakeni eyi-10, ilayisensi yokunikeza ubunini bokusansimbi eyigugu okuvumela lowo onikwe ilayisensi ukuba enze lokhu okulandelayo, njengoba kungachazwa kulayisensi, okunguku— 40

(a) thenga noma ukuthola okusansimbi eyigugu engalungisiwe ngokuphelele nganoma yisiphi isimo kunoma yimuphi umuntu onikezwe igunya ngaphansi kwaloMthetho lokuthengisa, ukusebenzisana noma ukulahla noma ukuchitha okusansimbi eyigugu ebunjwe ngokungaphelele; kanye 45

(b) nokulungisa, ukuguqula isimo nokwengezelela ubugugu nganoma iyiphi indlela kokusansimbi eyigugu engabunjiwe anakho ngokusemthethweni.

(c) Ukuchitha noma ikuphi okusansimbi eyigugu engalungisiwe ngokuphelele anakho ngokusemthethweni. 50

(2) Noma yimuphi umuntu owenqatshelwa noma onganikwanga ilayisensi yokucwenga angakwazi ukuthi, ezinsukwini ezingu-30 ngemuva kokwaziswa uMlawuli ngokwenqatshelwa, afake isikhalo ngendlela enqunyiwe kuNgqongqoshe yena ongakwazi— 55

(a) ukuchitha leso sikhalo;

(b) ukutshela uMlawuli ukuthi anikeze lowo muntu ilayisensi, inqobo nje uma kuphumelela imibandela yalesi sigaba; noma

(c) enze noma yisiphi isinqumo abona sifanele.

(3) Ngaphambi kokuba uMlawuli anikeze ilayisensi yokucwenga ofake isicelo selayisense kumele akhokhe imali enqunyiwe. 60

(4) The holder of a precious metal beneficiation licence must keep proper books of account in accordance with generally accepted accounting practice and must submit such information as may be prescribed to the Regulator annually by not later than 90 days after the end of his or her business' financial year.

(5) A precious metal beneficiation licence terminates in accordance with the terms and conditions under which it was issued. 5

(6) The holder of a precious metal beneficiation licence may not carry on any activity authorised by the licence elsewhere than on the premises or at the place described on the licence or described in any endorsement of that licence in terms of subsection (7), and the holder may not be in possession of unwrought or semi-fabricated precious metal at any place elsewhere than on the premises or at the place so described unless he or she is transporting such unwrought or semi-fabricated precious metal in accordance with section 13. 10

(7) (a) If at any time it becomes necessary for the holder of a precious metal beneficiation licence to transfer or extend the activities referred to in subsection (6) to any premises or place not described on his or her licence the Regulator may endorse on the licence the situation of such new or additional premises or place and must forthwith in writing notify the National Commissioner 15

(b) An endorsement contemplated in paragraph (a) does not allow the holder of the precious metal beneficiation licence to conduct business from the additional premises or place under a name that differs from the name used on the existing premises or place. 20

(c) If the holder of the precious metal beneficiation licence wishes to conduct business from any other premises or place under a name that differs from the name used on the existing premises or place, he or she must apply for a new licence in respect of the additional premises or place. 25

(8) (a) The Regulator may renew a precious metal beneficiation licence for further periods not exceeding 10 years each upon payment of the prescribed fee if an application for such renewal is made at least 30 days before the expiration of the licence.

(b) Subsection (2) applies with the necessary changes in connection with the refusal by the Regulator of any application in terms of paragraph (a). 30

(9) Whenever—

(a) any application under subsection (7) for the renewal of a refining licence is refused by the Regulator and no review of or appeal against such refusal is lodged or any review or appeal so lodged is dismissed;

(b) any refining licence has expired and no application for its renewal has been made by the holder thereof; 35

(c) any refining licence has been cancelled under this Act; or

(d) the activities authorised by such licence are discontinued permanently, the person who held the licence must forthwith submit to the Regulator a solemn declaration of the mass of any unwrought precious metal in his or her possession at the date such licence expired or was refused or cancelled or such activities were discontinued, and must dispose of such unwrought precious metal in accordance with this Act within 30 days after the date of such declaration or within such longer period as the Regulator may allow. 40

(10) The holder of a precious metal beneficiation licence issued in terms of this section must forthwith and in writing advise the Regulator of any unlawful conduct relating to precious metals in which he was asked or approached to participate in, or which he was asked to facilitate. 45

#### **Issue and renewal of jewellers' permits**

9. (1) The Regulator may issue to any person, in the prescribed form and for a period not exceeding five years, a jeweller's permit entitling the holder to do such of the following, as may be specified in the permit, namely— 50

(a) to buy or receive semi-fabricated precious metal in any form from any person authorised under this Act to sell, deal in or dispose of semi-fabricated precious metals; 55

(4) Lowo onelayisensi yokunikeza ubunikazi kufanele agcine izincwadi noma amabhuku ezimali ngokuhambisana nezijwayelo zokugcinwa kwamabhuku ezamukelekile futhi kufanele athumele lolo lwazi olunganqunywa kuMlawuli njalo ngonyaka zingakapheli izinsuku ezingu-90 ngemuva kokuphela konyakamali.

(5) Ilayisensi yokunikwa inzuzo yokusansimbi eyigugu iphela ngokuhambisana noma ngokusho kwemibandela eyakhishwa ngaphansi kwayo. 5

(6) Lowo onelayisensi yokunikeza ubunikazi yokusansimbi eyigugu akakwazi ukuqhubeka nokwenza umsebenzi ogunyazwe yilayisensi kwenye indawo noma indawo yokusebenzela ekulayisensi noma echazwe yinoma yiyiphi imvume yaleyo layisensi ngokulandela isigatshana (7), futhi oyiphethe akumele abe ephethe okusansimbi eyigugu okubunjwe ngokungaphelele kunoma iyiphi enye indawo kunaleyo echaziwe uma kuphela ethutha lokhu okusansimbi eyigugu ngokuhambisana nesigaba 11. 10

(7) (a) Uma nganoma yisiphi isikhathi kuba nesidingo sokuthi ophethe ilayisensi yokunikeza ubunini bokusansimbi eyigugu adlulise, noma andise/engezelele imisebenzi okukhulunywa ngayo kusigatshana (6) kunoma iyiphi enye indawo noma indawo yokusebenzela echazwe kulayisensi yakhe, uMlawuli angavumela abhale kulayisensi isimo sendawo yokusebenzela entsha noma eyengeziwe futhi kufanele abhale azise ngokushesha uKhomishani kaZwelonke ngemvume. 15

(b) Ukubhalwa kokwengezelela okukhulunywa ngakho endimeni (a) akuvumeli ophethe ilayisensi yobunini bokusansimbi eyigugu ukuthi enze umsebenzi ukusuka endaweni noma endaweni yokusebenzela eyengeziwe ngaphansi kwegama elehlukile kulelo alisebenzisa endaweni noma endaweni yokusebenzela yamanje. 20

(c) Uma lowo ophethe ilayisensi yokunikeza ubunini efisa ukwenza umsebenzi kunoma iyiphi enye indawo ngaphansi kwegama elehlukile kulelo elisetshenizwa endaweni akuyo, kumele afake isicelo selayisensi entsha ngokuhambisana nendawo noma indawo yokusebenzela eyengeziwe. 25

(8) (a) UMlawuli angavuselela kabusha ilayisensi yokunikeza ubunini ngokuqhubekayo esikhathini esingedluli iminyaka eyi-10, ngokukhokha imali enqunyiwe unyaka nonyaka uma isicelo sokuvuselela kabusha esifana nalesi esenziwa ezinsukwini ezingama-30 ngaphambi kokuphela kwelayisensi. 30

(b) Isigatshana (2) sihambisana nezinguquko ezidingekayo ngokuphathelene nokunqatshelwa kwanoma iyiphi ilayisensi nguMlawuli ngokulandela indima (a).

(9) Uma—

(a) UMlawuli enqaba noma echithwa noma yisiphi isicelo sokuvuselela ilayisensi yokucwenga esenziwe ngokwesigatshana (7) futhi kungabi nokubuyekeza noma isikhalo esifakiwe maqondana nalokhu kwenqatshwa, noma, yinoma yikuphi ukubuyekizwa noma isikhalo ezinjalo sizochithwa. 35

(b) noma iyiphi ilayisensi yokucwenga iphelelwe yisikhathi futhi kungazange kufakwe isicelo sokuyivuselela kabusha ngoyiphethe;

(c) noma iyiphi ilayisensi esuliwe ngaphansi kwaloMthetho; noma 40

(d) imisebenzi egunyazwe yileyo layisensi imiswa ngqi noma ingasaqhutshwa lowo muntu obenelayisensi kufanele ngokushesha athumele kuMlawuli isimemezelo esifungelwe sesisindo sokusansimbi eyigugu engabunjiwe anayo ngosuku okuphele ngaso isikhathi selayisensi noma yenqatshelwa noma isulwa noma imisebenzi enjena yamiswa, futhi kumele alahle noma achithe lokho okusansimbi eyigugu ngokuhambisana noMthetho zingakapheli izinsuku ezingu-30 ngemuva kwesimemezelo lesa noma esinye isikhathi eside esingamiswa uMlawuli. 45

(10) Lowo ophethe ilayisensi yokunikwa inzuzo ngokusansimbi okuyigugu ekhishwe ngaphansi kwalesi sigaba kufanele ngokushesha abhale azise uMlawuli ngokuziphatha okungekho emthethweni okuphathelene nokusansimbi eyigugu anxuswe noma acelwe ukuba abambe kukho iqhaza noma anxuswe ukuba akwenze lula. 50

#### **Ukukhishwa nokuvuselelwa kabusha kwemvume yobucwebecwebe**

9. (1) UMlawuli angakhipha anikeze noma imuphi umuntu, ngefomu elinqunyiwe ngesikhathi ezingevile eminyakeni emihlanu, imvume yobucwebecwebe evumela lowo oyiphethe ukwenza lokhu okulandelayo, njengoba kubaluliwe kuleyo mvume, okunguku— 55

(a) thenga noma ukuthola okusansimbi eyigugu engalungisiwe ngokungaphelele nganoma yisiphi isimo kunoma yimuphi umuntu onikezwe igunya nguMthetho lokuthengisa, ukusebenzisana noma ukuchitha okusansimbi eyigugu engalungisiwe ngokuphelele; 60

- (b) to change the form of, or in any other manner add value to, semi-fabricated precious metal in his or her lawful possession; and
- (c) to dispose of any semi-fabricated precious metal in his possession.
- (2) Any person who is refused a jeweller's permit may, within 30 days after having been notified by the Regulator of the refusal, appeal in the prescribed manner to the Minister who may— 5
- (a) dismiss the appeal;
- (b) direct the Regulator to issue such a permit to that person, subject to the succeeding provisions of this section; or
- (c) make any other order he or she deems fit. 10
- (3) Before the Regulator issues a jeweller's permit the applicant for the permit must pay the prescribed fee.
- (4) A jeweller's permit terminates in accordance with the terms and conditions under which it was issued.
- (5) A jeweller's permit does not entitle the holder thereof to acquire unwrought precious metal except under the authority of a special permit contemplated in section 4(1)(e). 15
- (6) (a) The Regulator may renew a jeweller's permit for further periods not exceeding five years each upon payment of the prescribed fee if an application for such renewal is made at least 30 days before the expiration of the permit. 20
- (b) Subsection (2) applies with the necessary changes in connection with the refusal by the Regulator of any application in terms of paragraph (a).
- (7) Whenever—
- (a) any application under subsection (6) for the renewal of a jeweller's permit is refused by the Regulator and no review or appeal against such refusal is lodged or any review or appeal so lodged is dismissed; 25
- (b) any jeweller's permit has expired and no application for its renewal has been made by the holder thereof;
- (c) any jeweller's permit has been cancelled under this Act; or
- (d) the activities authorised by such permit are discontinued permanently, the person who held the permit must forthwith submit to the Regulator a solemn declaration of the mass of any semi-fabricated precious metal in his or her possession at the date such licence expired or was refused or cancelled or such activities were discontinued, and must dispose of such semi-fabricated precious metal in accordance with this Act within 30 days after the date of such declaration or within such longer period as the Regulator may allow. 30 35
- (8) The holder of a jeweller's permit must keep proper books of account in accordance with generally accepted accounting practice and must submit such information as may be prescribed to the Regulator annually by not later than 90 days after the end of the financial year of the holder's business. 40
- (9) The holder of a jeweller's permit may not carry on any activity authorised by the permit elsewhere than on the premises or at the place described on the permit or described in any endorsement of that permit in terms of subsection (10), and the holder may not be in possession of semi-fabricated precious metal at any place elsewhere than on the premises or at the place so described unless he or she is transporting such semi-fabricated precious metal in accordance with section 13. 45
- (10) (a) If at any time it becomes necessary for the holder of a jeweller's permit to transfer or extend the activities referred to in subsection (9) to any premises or place not described on his or her permit the Regulator may endorse on the permit the situation of such new or additional premises or place and must forthwith in writing notify the National Commissioner of the endorsement. 50
- (b) An endorsement contemplated in paragraph (a) does not allow the holder of the jeweller's permit to conduct business from the additional premises or place under a name that differs from the name used on the existing premises or place.

- (b) nokuguqula isimo nokwengezelela ubugugu nganoma iyiphi indlela kokusansimbi eyigugu engalungiswe ngokuphelele anakho ngokusemthethweni;
- (c) ukuchitha noma yikuphi okusansimbi eyigugu engalungisiwe ngokuphelele anakho. 5
- (2) Noma yimuphi umuntu owenqatshelwe imvume yobucwebecwebe angakwazi, ukuthi ezinsukwini ezingu-30 ngemuva kokwaziswa nguMlawuli ngokwenqatshwa, afake isikhalo ngendlela enqunyiwe kuNgqongqoshe, yena ongakwazi—
- (a) ukuchitha lesi sikhalo;
- (b) ukutshela uMlawuli ukuthi anikeze imvume leyo kuloyo muntu, inqabo nje uma kuphumelela imibandela yalesi sigaba; noma 10
- (c) enze noma isiphi isinqumo asibona sifanele.
- (3) Ngaphambi kokuba uMlawuli anikeze imvume yobucwebecwebe ofake isicelo semvume kumele akhokhe imali enqunyiwe.
- (4) Imvume yobucwebecwebe iphela ngokulandela izimo nemibandela ekhishwe ngaphansi kwayo. 15
- (5) Imvume yobucwebecwebe ayinikezi lowo onemvume ilungelo lokuyofuna okusansimbi eyigugu okungasetshenzisiwe ngaphandle kokunikezwa imvume ekhethekile okukhulunywa ngayo esigabeni 4(1)(e).
- (6) (a) UMlawuli angavuselela kabusha imvume yobucwebecwebe isikhathi esingedluli eminyakeni emihlanu ngemuva kokukhokhwa kwemali enqunyiwe uma isicelo sokuvuselelwa kabusha sifakwe okungenani ezinsukwini ezingama-30 ngaphambi kokuphelelwa yisikhathi kwemvume. 20
- (b) Isigatshana (2) siyosebenza, kuyokwenziwa izinguquko ezidingekayo, ngokuphathelene nokwenqatshwa nguMlawuli kwanoma yisiphi isicelo ngaphansi kwesigaba (a). 25
- (7) Uma—
- (a) UMlawuli enqaba noma echithwa noma yisiphi isicelo sokuvuselela imvume yobucwebecwebe esenziwe ngokwesigatshana (6) futhi kungabi nokubuyekeza noma isikhalo esifakiwe maqondana nalokhu wenqatshwa, noma, yinoma yikuphi ukubuyekeza noma isikhalo sichithwa. 30
- (b) noma yiyiphi imvume yobucwebecwebe iphelelwe yisikhathi futhi kungazange kufakwe isicelo sokuyivuselela kabusha;
- (c) noma yiyiphi imvume yobucwebecwebe esuliwe ngaphansi koMthetho; noma
- (d) imisebenzi ephathelene nale mvume imiswa ngokungaguquki, yilowo onemvume kumele azise uMlawuli ngesimemezelo esifungelwe ngesisindo sanoma yikuphi okusansimbi eyigugu engalungisiwe ngokuphelele abenakho ngenkathi imvume yakhe iphelelwa yisikhathi noma yenqatshelwa noma yesuliwe noma imisebenzi leyo imisiwe, futhi kumele alahle okusansimbi eyigugu okunje ngokulandela uMthetho ezinsukwini ezingu-30 ngemuva kwesimemezelo noma esinye izikhathu esengeziwe esingavunyelwa nguMlawuli. 35 40
- (8) Ophethe imvume yobucwebecwebe kumele agcine izincwadi ezifanele zamabhuku ezimali ngokuhambisana nezijwayelo zokugcinwa kwamabhuku ezamukelekile futhi kufanele athumele lolo lwazi kuMlawuli njengoba kunqunyiwe njalo ngonyaka ngaphambi kokuphela kwezinsuku ezingu-90 ngemuva kokuphela konyaka wezimali webhizimisi yophethe. 45
- (9) Ophethe imvume yobucwebecwebe angeke akwazi ukuqhubeka nokwenza umsebenzi onikezwe imvume yilayisensi kwenye indawo noma indawo yokusebenzela ekumvume noma echazwe yinoma iyiphi imvume yaleyo mvume ngokulandela isigatshana (10), futhi lowo ophethe imvume akumele aphethe noma abe nokusansimbi eyigugu engabunjiwe ngokungaphelele kunoma yiphi enye indawo kunaleyo echaziwe, ngaphandle uma ethutha lokhu okusansimbi eyigugu ngokuhambisana nesigaba 1. 50
- (10) (a) Uma nganoma yisiphi isikhathi kuba nesidingo sokuthi onemvume yobucwebecwebe bokusansimbi eyigugu njengoba kuchazwe ngaphansi kwesigatshana (9) kunoma iyiphi indawo noma indawo yokusebenzela echazwe yimvume yakhe uMlawuli angavumela kulayisense isimo sendawo yokusebenzela entsha noma engeziwe futhi kumele abhale azise uKhomishina kaZwelonke ngemvume. 55
- (b) Ukuvuma okukhulunywa ngakho endimeni (a) akuvumeli ophethe imvume yobucwebecwebe bokusansimbi eyigugu ukuthi enze umsebenzi ukusuka endaweni noma endaweni yokusebenzela eyengeziwe ngaphansi kwegama elehlukile kulelo alisebenzisa endaweni noma endaweni yokusebenzela yamanje. 60

(c) If the holder of the jeweller's permit wishes to conduct business from any other premises or place under a name that differs from the name used on the existing premises or place, he or she must apply for a new licence in respect of the additional premises or place.

(11) The holder of a jeweller's permit issued in terms of this section must forthwith and in writing advise the Regulator of any unlawful conduct relating to precious metals in which he or she was asked or approached to participate in, or which he or she was asked to facilitate. 5

### **Permit to import precious metals**

10. (1) Subject to subsection (2), no person may import any unwrought or semi-fabricated precious metal into the Republic. 10

(2) (a) The Regulator may, subject to such conditions as may be prescribed and after consultation with the National Commissioner and the National Treasury, issue to—

(i) any person contemplated in section 4(1) (a), (b), (c), (d), (e) or (f) in the prescribed form a permit entitling such person to import any unwrought or semi-fabricated precious metal into the Republic or 15

(ii) any person contemplated in section 5(1) (a), (b), (d), (e), (f) or (g) in the prescribed form a permit entitling such person to import any semi-fabricated precious metal into the Republic

(b) The persons contemplated in paragraph (a) must declare, and submit the prescribed documentary proof of the origin of such precious metal to the Regulator in the application for the permit. 20

(c) The import permit contemplated in paragraph (a) shall be valid for a period not exceeding one year.

(3) The Regulator or any member of the South African Police Service may at any time inspect any precious metal contemplated in subsection (2) and take such sample as may be reasonable to establish or confirm the origin and content of such precious metal. 25

(4) The permit issued in terms of subsection (2) must state the origin of the precious metal in question, the purpose of the import and such other particulars as may be prescribed. 30

### **Cancellation of licences, permits and certificates**

11. The Regulator may cancel a licence, permit or certificate if the holder of such licence, permit or certificate, as the case may be—

(a) has furnished false or incomplete information in the application for that licence, permit or certificate, or has submitted any other information required in terms of this Act that is false or incomplete; 35

(b) contravenes or fails to comply with a condition imposed in the licence, permit or certificate;

(c) contravenes or fails to comply with a provision of this Act; or

(d) is convicted of an offence in terms of this Act or any other offence involving fraud, theft, corruption or forgery. 40

### **Export of precious metals**

12. (1) No person may export any unwrought or semi-fabricated gold except with the approval of the National Treasury in terms of the Exchange Control Regulations made under the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), granted with the concurrence of the Minister. 45

(2) No person may export any unwrought or semi-fabricated metals of the platinum group except with the written approval of the Minister which shall be granted subject to the promotion of equitable access to, and the orderly local beneficiation of such metals.



(c) Uma ophethe invume yobucwebecwebe efisa ukwenza umsebenzi kunoma iyiphi enye indawo ngaphansi kwegama elehlukile kulelo elisetshenziswa endaweni akuyo, kumele afake isicelo selayisensi entsha ngokuhambisana nendawo noma indawo yokusebenzela eyengeziwe.

(11) Lowo ophethe invume yobucwebecwebe ekhuswe ngaphansi kwalesizaba kufanele abhale azise uMlawuli ngokuziphatha okunzekho emthethweni okuphathalene nokusansimbi eyigugu anxuswe noma acelwe ukuba abambe iqhaza noma akwenze lula. 5

### Imvume yokuthenga okusansimbi eyigugu kwamanye amazwe

10. (1) Ngokuhambisana nokushiwo esigatshaneni (2), akekho umuntu ongangenisa eRiphabhuliki noma yikuphi okusansimbi eyigugu okungalungisiwe noma okubunjwe ngokungaphelele. 10

(2) (a) Ngokuhambisana nemibandela enqunyiwe nangemuva kokuxhumana noSikhwama kaZwelonke, uMlawuli angakhipha anike—

(i) noma imuphi umuntu okukhulunywa ngaye esigabeni 4(1)(a), (b), (c), (d), (e) noma (f) ngefomu enqunyiwe invume evumela lowo muntu ukuba athenge kwamanye amazwe angenise lapha eRiphabhulikhi okusansimbi eyigugu engabunjiwe noma engalungisiwe ngokuphelele; noma 15

(ii) noma imuphi umuntu okukhulunywa ngaye esigabeni 5(1)(a), (b), (d), (e), (f) noma (g) ngefomu elinqunyiwe invume evumela lowo muntu ukuba athenge kwamanye amazwe angenise eRiphabhulikhi okusansimbi eyigugu okungalungisiwe ngokuphelele. 20

(b) Umuntu okukhulunywa ngaye endimeni (a) kufanele enze izifungo futhi athumele kuMlawuli ubufakazi ngombhalo onqunyiwe ngemvelaphi yalokho okusansimbi eyigugu. 25

(c) Imvume yokuthenga impahla kwamanye amazwe okukhulunywa ngayo endimeni (a) iyosebenza isikhathi esingeke saba ngaphezulu konyaka owodwa.

(3) UMlawuli noma elinye ilunga loMbutho wamaPhoyisa aseNingizimu Afrika, noma yisiphi isikhathi engahlola noma yikuphi okusansimbi eyigugu okukhulunywa ngakho esigabeni (2) futhi lithatha isampula noma ingxenye elingene ukuze liyobheka noma liqinisekise imvelaphi nokuqukethwe yilokho okusansimbi eyigugu. 30

(4) Imvume ekhishwe ngokulandela okushiwo isigatshana (2) kufanele iveze noma likhombise yalokho okusansimbi eyigugu okukhulunywa ngakho, inhloso yokuthengwa kwakho kwelinye izwe kanye neminye imininingwane enqunyiwe.

### Ukusulwa kwamalaysensi, izimvume kanye nezitifiketi 35

11. UMlawuli angayesula ilayisensi, imvume noma isitifiketi uma ophethe ilayisensi, imvume noma isitifiketi, ngokwehlukana—

(a) enikeze ulwazi olungaphelele noma olungamanga ekufakeni isicelo selayisense, imvume noma isitifiketi, noma anikeze noma yiluphi ulwazi oludingekayo ngokuphathelene nalo Mthetho okungelona iqiniso noma olungaphelele; 40

(b) ephula noma ehluleka ukulandela imibandela emiswe kulayisense, imvume noma isitifiketi;

(c) ephula noma ehluleka ukulandela okushiwo yilo Mthetho; noma

(d) eboshelwe icala ngaphansi kwaloMthetho noma elinye ecala elimbandakanya ukukhwebanisa, ukweba, inkohlakalo nokuguqula imbhalo. 45

### Ukuthengiselwa kwamanye amazwe kokusansimbi eyigugu

12. (1) Akekho umuntu ongathengisela elinye izwe noma akhiphe kulelizwe igolide engabunjiwe noma engalungisiwe ngokuphelele ngaphandle uma ethole imvume kuSikhwama kaZwelonke ngokoMthethonkambiso wokuLawula Ukushintshisana owenziwe ngaphansi koMthetho Wezimali kanye Nokushintshiselana, ka-1933 (uMthetho ongunombolo 9 ka-1933), imvume iyonikezwa ngokuvumelana noNgqongqoshe. 50

(2) Akekho umuntu ongathengisela elinye izwe noma akhiphe kulelizwe noma yikuphi okusansimbi eyigugu okungabunjiwe noma okungalungisiwe ngokuphelele komndeneni noma umhlambi weplathinamu ngaphandle kwemvume ebhaliwe enikwe nguNgqongqoshe, eyonikezwe ngokulandela inqubo yokutholakala ngokulinganayo nokuthula nokuzuza kwabantu bendawo lapho okusansimbi kumbiwa khona. 55

### Transportation and conveyance of precious metals

13. A person may not transport or in any manner convey any semi-fabricated or unwrought precious metal outside the boundaries of any mine, works or other property or place where such metal is mined, refined or worked with, unless he or she is in possession of the prescribed documentation. 5

### Authorised dealer entitled to buy precious metal in any form

14. (1) An authorised dealer may buy precious metal in any form from any person authorised to dispose of semi-fabricated or unwrought precious metal in terms of this Act after such person has shown the dealer a licence, permit, mining or prospecting right or certificate authorising that person to dispose of such precious metal. 10

(2) Where a transaction takes place between an authorised dealer and the holder of a certificate referred to in section 4(1)(d) or 5(1)(d) such certificate must be handed to and retained by the authorised dealer for such period as may be prescribed.

### Register of transactions to be kept by certain persons dealing in unwrought precious metal 15

15. (1) (a) Every holder of a refining licence or a precious metal beneficiation licence, authorised dealer or producer who deposits for safe-keeping, receives, despatches or otherwise disposes of unwrought precious metal must keep a true and correct register in the prescribed form and for the prescribed period of all such precious metal deposited, received, despatched or otherwise disposed of by him or her. 20

(b) The person contemplated in paragraph (a) must enter in such register immediately after the conclusion of each such transaction—

- (i) the date of the transaction;
- (ii) the names and addresses of the parties to the transaction;
- (iii) the nature and mass of the material or the mass of the precious metal which is the subject of the transaction; 25
- (iv) the price, if any, received or paid.

(2) Every holder, authorised dealer or producer contemplated in subsection (1) must—

(a) on a quarterly basis submit to the Regulator a true copy in duplicate of such register for the last preceding quarter, together with an affirmation or a solemn declaration of the correctness thereof; and 30

(b) produce and exhibit such register whenever requested to do so by an Inspector appointed in terms of section 3(2)(c) or any member of the South African Police Service holding a rank of or above the rank of sergeant. 35

(3) (a) Subsections (1) and (2) apply with the necessary changes and subject to paragraph (b) to the holder of a special permit contemplated in section 2(1)(e).

(b) The Minister may exempt any holder contemplated in paragraph (a) or any class of such holders from the application of subsections (1) and (2).

(4) Subject to subsection (5), any information or data in the register submitted in terms of subsection (2)(a) may be disclosed to any person— 40

- (a) in order to achieve any object of the Regulator; or
- (b) pursuant to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(5) No information or data in the register submitted in terms of subsection (2)(a) may be disclosed to any person if it contains information or data supplied in confidence by the supplier of the information or data. 45

(6) Any person submitting information or data in terms of subsection (2)(a) must inform the Regulator and indicate which information and data must be treated as confidential and may not be disclosed, unless with the written approval of the licensee. 50

**Ukuthuthwa Nokuhanjiswa kokusansimbi eyigugu**

13. Umuntu angeze athutha noma ngayiphi indlela noma yikuphi okusansimbi eyigugu engalungisiwe ngokuphelele noma engabunjiwe ngaphandle kwemingcele yanoma iyiphi imayini, indawo yokusebenza noma enye impahla noma indawo lapho lokho okusansimbi kumbiwa khona, kucwengwe noma kusetshenzwe ngakho ngaphandle kokuthi lowo muntu abe ephethe izincwadi ezinqunyiwe. 5

**Umthengisi ogunyaziwe uvumelekile ukuthenga okusansimbi eyigugu noma okunhloboni**

14. (1) Umthengisi osemthethweni angathenga okusansimbi eyigugu noma okunhloboni ukuze achithe okusansimbi eyigugu engalungisiwe ngokuphelele noma engabunjiwe ngokwaloMthetho ngemuva kokuthi lowo umuntu ekhombise umthengisi ilayisensi, imvume noma isitifiketi esimnikeza imvume yokuchitha okusansimbi eyigugu. 10

(2) Lapho kunokuthengiselana phakathi komthengisi osemthethweni kanye nophethe isitifiketi ekukhulunywa ngaso esigabeni 4(1)(d) noma 5(1)(d) umthengisi ogunyaziwe isikhathi esinqunyiwe. 15

**Umqulu wokubhalisa noma iRegista yokubhalisa ukuthengiselana okufanele kugcinwe ngabantu abasebenza ngokusansimbi eyigugu engabunjiwe**

15. (1) (a) Nanoma yimuphi umuntu onelayisense yokucwenga, noma onelayisensi yokuzusa kokusansimbi eyigugu noma umthengisi ogunyaziwe noma umkhqiqizi ogcina ngokuphepha, athole, akhipha noma achithe ngenye indlela okusansimbi eyigugu okungabunjiwe kufanele agcine irejista noma umqulu ngendlela enqunyiwe futhi awugcine isikhathi esinqunyiwe okhombisa konke okusansimbi akugcinile, akutholile, akukhiphile noma akuchithe noma ngayiphi indlela. 20

(b) Umuntu okukhulunywa ngaye endimeni (a) kufanele ngokushesha afake kuRegista ngemuva kokuqeda noma kokuvumelana ngokuthengiselana— 25

(i) usuku lokuthengisa;

(ii) amagama namakheli abantu abathengiselene noma abavumelene;

(iii) Uhlobo nesisindo saleyonto noma isisindo sokusansimbi eyigugu okuthengiselwene ngayo; 30

(iv) Intengo, uma ikhona, etholiwe noma ekhokhiwe. 30

(2) Noma yimuphi ophethe, umthengisi ogunyaziwe noma umkhqiqizi okukhulunywa ngaye kusigatshaneni (1) kufanele—

(a) athumele kuMlawuli, njalo ezinyangeni ezine, amakhophi noma umfanekiso oyiqiniso ngamibili alowo mqulu noma iRegista okubhaliswa kuyo lokho okwenziwe ezinyangeni ezine ezedlule kanye nesifungo esiqinisekisa ubuqiniso balowo mbhalo; kanye 35

(b) azeze futhi abeke obala lowo mqulu noma iRegista uma eceliwe ukuba enze njalo ngokwesigaba 3(2)(c) noma iLunga loMbutho wamaPhoyisa waseNingizimu Afrika elisezingeni likaSayitsheni noma ngaphezulu. 40

(3) (a) Izigatshana (1) kanye no-(2) zihambisana nezinguquko ezidingekayo futhi ngokuhambisana nendima (b) ziyosebenza kulowo ophethe ilayisensi okukhulunywa ngaye endimeni 2(1)(a). 40

(b) UNgqongqoshe angaxolela noma imuphi umuntu okukhulunywa ngaye endimeni (a) ukuba kungasebenzi kuye izigatshana (1) no (2). 45

(4) Ngokuhambisana nokushiwo isigatshana (5) noma iluphi ulwazi noma imininingwane esemqulwini noma kuRegista ethunyelwe ngokwesigatshana (2)(a) inganikwa noma imuphi umuntu—

(a) ukuze afeze okuphokophelwe nguMlawuli; noma

(b) ngokulandela okushiwo uMthetho wokuKhuthaza ukutholakala kolwazi ka 2000 (uMthetho ongunombolo 2 ka 2000) 50

(5) Akukho lwazi noma imininingwane ethunyelwe ngokwesigatshana (2)(a) olungadalulwa kunoma imuphi umuntu uma luqethe ulwazi noma imininingwane olunike ngokwethembeka yilowo onikele ngolwazi noma imininingwane. 55

(6) Noma imuphi umuntu othumela ulwazi noma imininingwane ngokwesigatshana (2)(a) kufanele azise uMlawuli futhi asho ukuthi yiluphi ulwazi okufanele luthathwe njengoluyimfihlo olungeke lwadalulwa, ngaphandle uma ludalulwa ngemvume ebhaliwe yalowo onelayisensi. 55

**Powers of police to inspect, search and seize**

- 16. (1)** A member of the South African Police Service may at any reasonable time, without prior notice and on the authority of a warrant issued in terms of subsection (5) and subject to section 17, enter and search any premises that have a bearing on an investigation and are specified in the warrant, including a private dwelling, and may— 5
- (a) seal, mark or otherwise secure any package or container found in or on such premises;
  - (b) take an account of all precious metal found in or on such premises and, if necessary, take such precious metal into custody;
  - (c) search any person on those premises if there are reasonable grounds for believing that the person has an article, a document or a record in his or her possession that has a bearing on the investigation; 10
  - (d) take extracts from, or make copies of any book, document or record on the premises and that has a bearing on the investigation;
  - (e) demand the production of and inspect any licence, permit, certificate or document that is relevant to the inspection; and 15
  - (f) take samples of any substance that is relevant to the inspection.
- (2) A member of the South African Police Service who removes anything from the premises being searched must—
- (a) issue a receipt for it to the owner or person in control of the premises; and 20
  - (b) unless it is an item that such owner or person is not allowed to possess in terms of this Act, return it as soon as practicable after it has served the purpose for which it was removed.
- (3) Upon the request of a member of the South African Police Service acting under a warrant issued in terms of subsection (5), the occupant and any other person present on the premises must— 25
- (a) make available or accessible or deliver to the member any document, record, object or material which pertains to an investigation contemplated in subsection (1) and which is in the possession or under the control of the occupant or other person; 30
  - (b) furnish such information as he or she has with regard to the matter under investigation; and
  - (c) render such reasonable assistance as the member may require to be able to perform his or her functions in terms of this Act efficiently.
- (4) Before questioning any person at the premises in question, the member of the South African Police Service must advise that person of his or her right to be assisted at the time by an advocate or attorney, and allow that person to exercise that right. 35
- (5) A warrant contemplated in subsection (1) may be issued by a judge or a magistrate—
- (a) in relation to premises on or from which there is reason to believe that a contravention of this Act has been or is being committed; and 40
  - (b) if it appears from information on oath or affirmation that there are reasonable grounds to believe that there is evidence available in or upon such premises of a contravention of this Act.
- (6) The warrant may impose restrictions on the powers of the member of the South African Police Service. 45
- (7) A warrant issued in terms of this section—
- (a) remains in force until—
    - (i) it is executed;
    - (ii) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; 50
    - (iii) the expiry of one month from the date of its issue; or
    - (iv) the purpose for which the warrant was issued has lapsed, whichever occurs first; and
  - (b) must be executed by day unless the person who issues the warrant authorises the execution thereof by night. 55
- (8) For the purposes of this section “premises” means any building, structure or tent together with the land on which it is situated and the adjoining land used in connection

**Amandla amaphoyisa okuhlola, ukuphenya nokuthatha**

16. (1) Ilunga LoMbutho wamaPhoyisa aseNingizimu Afrika, noma yingasiphi isikhathi esamukelekile, ngaphandle kokuqala ngokunikeza isaziso kanye nencwadi yokugunyaza ekhishwe ngokwesigatshana (5) ngokuhambisana nesigaba 17, lingangena, liphenye noma iziphi izindawo ezithintekayo mayelana nophenyo futhi ezibalulwe encwadini egunyazayo, okumbandakanywa nomuzi womuntu, futhi linga— 5
- (a) vala, lifake uphawu noma livale ngendlela thize noma yiliphi iphakethe, noma into yokuphatha etholakale kuleyo ndawo;
  - (b) nokususa konke okusansimbi eyigugu okutholakale endaweni yokusebenzela, bese kuthi uma kunesidingo, lithathe okusansimbi eyigugu liyokugcina; 10
  - (c) phenya noma yimuphi umuntu okuleyo ndawo uma kunezinsolo ezinesisekelo ukuthi loyo muntu uphethe okuthile, umbhalo noma irekhodi eliphathelene noma elithintekayo kulolo phenyo;
  - (d) thatha okucashuniwe, ukwenza imifanekiso yanoma iyiphi incwadi, umbhalo noma irekhodi endaweni yokusebenzela okuphathelene noma okuthintekayo kulolo phenyo; 15
  - (e) yalela ukuba likhonjiswe futhi lihlole noma iyiphi ilayisensi, imvume, isitifiketi noma umbhalo ofanele ukuhlolwa; futhi
  - (f) lingathatha amasampula anoma iyiphi into efanele ukuhlolwa.
- (2) Ilunga loMbutho wamaPhoyisa waseNingizimu Afrika elisusa okuthile endaweni yokusebenzela ebiphenywa kumele— 20
- (a) likhiphe futhi linikeze irisidi yalokho okuthathiwe noma okususiwe kumnikazi noma umuntu ophethe kuleyondawo; futhi
  - (b) ngaphandle uma into leyo umnikazi noma umuntu lowo engavunyelwe ukuyiphatha noma ukuba nayo ngokwaloMthetho, liyiphindisele ngokushesha okulindelekile ngemuva kokwenza umsebenzi ebeliyithathele wona. 25
- (3) Ngemuva kokucelwa yilunga loMbutho wamaPhoyisa aseNingizimu Afrika elisebenza ngencwadi yokugunyazwa ekhishwe ngokusho kwesigatshana se-(5) ongumhlali noma imuphi umuntu okhona kuleyo ndawo kufanele— 30
- (a) enze kutholakale noma kufinyeleleke noma anike lelo lungu umbhalo, irekhodi, into noma izinto zokwenza okuphathelene nophenyo olukhulunywa ngalo kusigatshana (1) okuphethwe noma okungaphansi kwesandla sakhe umhlali noma omunye umuntu;
  - (b) anikeze ulwazi analo oluphathelene nadaba oluphenywayo; futhi 35
  - (c) anikeze usizo olulindelekile olungadingwa yilunga ukuze likwazi ukwenza umsebenzi walo ngokwaloMthetho ngempumelelo.
- (4) Ngaphambi kokuphonsa imibuzo kunoma imuphi umuntu okuleyo ndawo, ilunga loMbutho wamaPhoyisa aseNingizimu Afrika kufanele leluleke lowo muntu ngelungelo lakhe lokusizwa ummeli ngaleso sikhathi, futhi livumele lowo muntu ukuthi asebenzise lelo lungelo. 40
- (5) Incwadi yokugunyazwa okukhulunywa ngayo esigatshaneni (1) ingakhishwa ijaji noma imantshi—
- (a) ngokuphathelene nendawo lapho okukholelwa ukuthi kwepulwe loMthetho noma kwepulwa lo Mthetho; futhi 45
  - (b) uma kuvela olwazini olunikwe ngaphansi kwesifungo ukuthi kunobufakazi obesekelwe obeza kukholakale ukuthi kuleyo ndawo kwepulwe loMthetho.
- (6) Incwadi yokugunyaza ingabeka imibandela efinyeza noma inciphise amandla elunga loMbutho wamaPhoyisa aseNingizimu Afrika.
- (7) Incwadi yokugunyaza ekhishwe ngokwalesi sigaba— 50
- (a) ihlala ingasetshenziswa kuze kube—
    - (i) iyasetshenziswa;
    - (ii) iyeseulwa ngumuntu oyikhiphile uma ngabe lowo muntu engekho, kungaba yinoma yimuphi omunye umuntu onamandla noma igunya elifanayo; 55
    - (iii) sekuphele inyanga eyodwa kusukela ngosuku eyakhishwa ngalo; noma
    - (iv) inhloso ebikhishelwe yona ayisekho noma isiphelelwe isikhathi noma ikuphi okwenzeka kuqala; futhi
  - (b) kufanele isetshenziwe emini ngaphandle uma umuntu oyikhiphile egunyaze ukuthi ingasetshenziswa ebusuku. 60
8. Ngenhloso yalesi sigaba “indawo” isho noma yisiphi isakhiwo noma ibhilidi noma itende kanye nomhlaba okwakhiwe kuwo kanye nomhlaba oncikene nawo

with it and includes any land without any building, structure or tent and any vehicle, aircraft, ship or any other means of conveyance.

#### **Identification prior to entry, and resistance against entry**

17. (1) A member of the South African Police Service who has obtained a warrant in terms of section 16(5), may be accompanied by an Inspector appointed in terms of section 3(2)(c), and must immediately before entering the premises in question— 5

- (a) audibly announce that he or she is authorised to enter the premises and demand admission to the premises; and
- (b) notify the person in control of the premises of the purpose of the entry, unless there are reasonable grounds to believe that such announcement or notification might defeat the purpose of the search. 10

(2) The member of the South African Police Service must—

- (a) hand to the person in control of the premises a copy of the warrant or, if no such person is present, affix such a copy to a prominent place on the premises; and 15
- (b) on request of the person in charge of such premises show his or her certificate of appointment to that person.

(3) A member of the South African Police Service may overcome resistance to the entry and search by using such force as is reasonably required, including the breaking of a door or window of the premises. 20

#### **Entry and search of premises without warrant**

18. A member of the South African Police Service may without a warrant exercise any power referred to in section 16(1) if—

- (a) a person who is competent to do so consents to such exercise, and he or she is accompanied by an Inspector appointed in terms of section 3(2)(c); or 25
- (b) there are reasonable grounds to believe that a warrant would be issued in terms of section 16(5) and that the delay in obtaining the warrant would defeat the object of the warrant.

#### **Disposal of items seized by member of South African Police Service**

19. Subject to section 21, a member of the South African Police Service must deal with and dispose of any seized item in the manner provided for in Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 30

#### **Offences and penalties**

20. (1) Any person who—

- (a) contravenes section 4(1) or (3), 5(1) or (2), 7(5) or (6), 8(6),(7) or (9), 9(5), (9) or (10) or 11(1) or (2); 35
- (b) buys unwrought or semi-fabricated precious metal without having satisfied himself or herself that the vendor thereof is lawfully entitled to sell or dispose of such metal; or
- (c) maliciously places any unwrought or semi-fabricated precious metal in the possession or on the premises of any other person with intent that such other person may be convicted under this Act, is guilty of an offence and liable on conviction to a fine not exceeding one million rand or to imprisonment for a period not exceeding 20 years or to both such fine and such imprisonment. 40

(2) Any person who— 45

- (a) contravenes section 4(4), 7(8) or (9), 8(4) or (10), 9(7), (8), (10) or (11), 10(1) or (2), 13 or 15(1) or (2) or 22(1);

osetshenziswa ngokufanayo futhi kumbandakanywa noma yimuphi umhlaba okungakhiwe sakhwiwo noma ithende kuwo noma iyiphi imoto, indiza, umkhumbi noma yinoma iyiphi enye indlela yokuthutha.

### Ukuzazisa ngaphambi kokungena, kanye nokuvinjelwa ukungena

17. (1) Ilunga loMbuthe wamaPhoyisa eNingizimu Afrika elithole incwadi 5  
yokugunyazwa ngokusho kwesigaba 16(5) lingaphelekezelwa uMhloli ngokusho  
kwesigaba 3(2)(c) futhi kufanele ngokushesha ngaphambi kokungena kuleyo ndawo—
- (a) limemeze kuzwakale ukuthi ugunyaziwe ukuba angene kuleyo ndawo bese 5  
ephoqelele ukuvunyelwa ukungena kuleyo ndawo; futhi
  - (b) lazise umuntu ophethe kuleyo ndawo ngenhloso yokungena, ngaphandle uma 10  
enesizathu sokukholelwa ukuthi ukumemeza noma ukwazisa okunjalo  
kungayibulala noma kungathikameza inhloso yopheno.
- (2) Ilunga loMbuthe wamaPhoyisa aseNingizimu Afrika kufanele—
- (a) linikeze umuntu ophethe endaweni yokusebenzela ikhophi noma umfanekiso 15  
wencwadi yokugunyazwa uma kungekho muntu ophethe linamathisele leyo  
khophi endaweni ebonakalayo kuleyo ndawo; futhi
  - (b) uma licelwa ngumuntu ophethe indawo, likhombise lowo muntu isitifiketi 15  
sakhe sokuqashwa.
- (3) Ilunga loMbuthe wamaPhoyisa aseNingizimu Afrika lingakwazi ukulwa 20  
nokwenqatshelwa ukungena nokusesha ngokusebenzisa amandla noma undluzula  
elingene, okungambandakanya ukwephula umnyango noma amafasitela kuleyo ndawo.

### Ukungena nokusesha endaweni ngaphandle kwencwadi egunyazayo

18. Ilunga loMbuthe wamaPhoyisa aseNingizimu Afrika lingakwazi ukusebenzisa 25  
noma imaphi amandla okukhulunywa ngawo esigabeni 16(1) ngaphandle kwencwadi  
egunyazayo uma—
- (a) umuntu onelungelo lokuvumela evuma ukuba kusetshenziswe lawo mandla, 25  
ebe ephelkezelwa uMhloli oqashwe ngokusho kwesigaba 3 (2)(c); noma
  - (b) kunenkolelo enesisekelo ukuthi incwadi egunyazayo izokhishwa 30  
ngokwesigaba 16(5) kanye nokuthi ukuphuza ukuthola incwadi egunyazayo  
kungabulala noma kuthikameze inhloso yencwadi egunyazayo.

### Ukuchithwa kwezinto ezithathwe yilunga loMbuthe wamaPhoyisa eNingizimu Afrika

19. Ngokuhambisana nokushiwo esigatshaneni 21, ilunga loMbuthe wamaPhoyisa 35  
aseNingizimu Afrika kufanele libhekane futhi lichithe noma iyiphi into ethathwe  
ngendlela emiswe kuSahluko 2 soMthetho weNqubo yoBugebengu, ka-1977 (uMthetho  
ongunombolo 51 ka-1977).

### Amacala nezinhlawulo

20. (1) Noma yimuphi umuntu—
- (a) owephula okushiwo isigaba 4(1) noma 3, 5(1) noma (2), 7(5) noma 6, 8(6), (7) 40  
noma 9, 9(5), (9) noma (10) noma 11(1) noma (2);
  - (b) othenga okusansimbi eyigugu engabunjiwe noma engalungisiwe  
ngokuphelele engazange azenelise ukuthi umthengisi ugunyaziwe umthetho  
ukuba athengise noma achithe lokho okusansimbi; noma
  - (c) ngenhloso embi abeke noma yikuphi okusansimbi eyigugu engabunjiwe 45  
noma engalungisiwe ngokuphelele ezandleni zomuntu noma endaweni  
yanoma imuphi umuntu ngamabomu ukuze lowo muntu alahlwe icala  
ngaphansi kwaloMthetho, ukubekwa icala uma elahlwa icala uyohlawuliswa  
imali engeze yeqa esigidini samarandi noma ukubhadla ejele isikhathi  
esingeke saba ngaphezulu kweminyaka engu-20 noma kokubili inhlawulo 50  
yemali nokuboshwa.
- (2) Noma yimuphi umuntu—
- (a) owephula noma oweqa okushiwo isigaba 4(4), 7(8) noma (9), 8(4) noma (10),  
9(7), (8), (10) noma (11) noma, 10(1) noma (2), 13 noma 15(1) noma (2) noma  
22(1);

(b) being an authorised dealer contemplated in section 14(1), buys unwrought or semi-fabricated precious metal from any person who has not produced a licence, permit or certificate as provided in that section;

(c) being an authorised dealer contemplated in section 14(1), fails to obtain and retain the certificate contemplated in section 14(2); or 5

(d) fails to comply with any lawful request to produce and exhibit the register or proper books of account required to be kept by him or her in terms of this Act, is guilty of an offence and liable on conviction to a fine not exceeding five hundred thousand rand or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment. 10

(3) If any person convicted in terms of subsection (1) or (2) is at the time of his or her conviction the holder of a licence, permit or certificate contemplated in this Act, he or she shall forfeit such licence, permit or certificate and any right of renewal thereof for such period as the court convicting him or her may direct.

### **Disposal of precious metal**

21. (1) (a) On the conviction of any person of a crime or offence involving precious metal a court, in passing sentence, may order that any semi-fabricated or unwrought precious metal in respect of which the person has been convicted be delivered to the owner thereof, if the court is satisfied as to the ownership.

(b) If the court is not so satisfied such precious metal must be forfeited to the State. 20

(2) If the owner of any mine can satisfy the court or police official concerned on a balance of probabilities that any unwrought or semi-fabricated precious metal that has been or would otherwise be forfeited to the State in terms of this section, the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or any other law was mined in that mine, and has not been disposed of by the mine owner, such precious metal must be returned to that owner. 25

(3) Before returning any precious metal to any owner of a mine in terms of subsection (2) the court or police official concerned may require from that owner to indemnify the State against any claims to such precious metal or to provide such guarantees in that regard as the court or police official concerned may reasonably require. 30

(4) A forfeiture in terms of subsection (1) does not affect the right which the owner of the precious metals or any person other than the convicted person may have to the property forfeited, if he or she satisfies the court concerned that he or she did not know that such property was being used or would be used for the purpose of or in connection with the commission of the offence in question or that he or she could not prevent such use. 35

### **Database for precious metals**

22. (1) Any producer or any person who imports precious metal must submit to the Forensic Science Laboratory of the South African Police Service such specimens of any precious metals produced or imported by him or her as may be prescribed. 40

(2) The Head of the Forensic Science Laboratory or a person designated by him or her must create and maintain a database containing such information in respect of the precious metals contemplated in subsection (1) as may be prescribed.

### **Regulations**

23. (1) The Minister may by notice in the *Gazette* make regulations regarding— 45



- (b) othi engumthengisi ogunyaziwe okukhulunywa ngaye esigabeni 14(1), athenge okusansimbi eyigugu engabunjiwe noma engalungisiwe ngokuphelele kunoma imuphi umuntu ongazange aveze ilayisensi, imvume noma isitifiketi njengoba kushiwo kuleso sigaba;
- (c) othi engumthengisi osemthethweni okukhulunywa ngaye esigabeni 14(1), ahluleke ukuthola nokugcina isitifiketi okukhulunywa ngaso esigabeni 14(2); noma 5
- (d) ehluleka ukulandela noma yisiphi isicelo esisemthethweni sokukhipha nokuveza irejista noma izincwadi ezifanele okudingeka azigcine ngokusho kwaloMthetho, 10

unecala futhi uma elahlwa icala angakhokhiswe inhlawulo engevile ezinkulungwaneni ezingamakhulu amahlanu amarandi noma afakwe ejele iminyaka engedluli kweyi-10 noma kokubili inhlawulo kanye nokuboshwa.

(3) Uma yinoma yimuphi umuntu eboshiwe ngokusho kwesigatshana (1) noma (2) ngenkathi eboshwa enelayisense, imvume noma isitifiketi okukhulunywa ngaso kuloMthetho, uzakulahlekelwa yilungelo laleyo layisense, imvume noma isitifiketi kanye nanoma yiliphi ilungelo lokuvuselelwa kwalokhu isikhathi esiyonqunywa yinkantolo emlahle ngecala. 15

### Ukuchithwa kokusansimbi eyigugu

21. (1) (a) Ekulahlweni yicala kwanoma yimuphi umuntu ngecala noma ubugebengu obuphathelene nokusansimbi eyigugu, uma inikeza isigwebo inkantolo inganquma ukuthi lokho okusansimbi eyigugu alahlwe yicala ngakho kubuyiselwe kumninikho, uma inkantolo igculisekile ngobunini. 20

(b) Uma inkantolo ingaculisekile ngobunini balokho okusansimbi eyigugu kuyonikezwa noma kuyothathwa umbuso. 25

(2) Uma umnikazi wanoma iyiphi imayini engaculisa inkantolo noma iphoyisa elithintekayo ngokulingana kokungenzeka ukuthi okusansimbi eyigugu okungabunjiwe noma okungalungisiwe ngokuphelele osekunikezwe noma okuzonikezwa umbuso ngokwalesi sigaba, uMthetho weNqubo yoBugebengu ka-1977 (uMthetho ongunombolo 51 ka-1997) noma, yinoma yimuphi omunye umthetho okwakumbiwa kuleyo mayini futhi okungachithwanga ngumnini wemayini, lokho okusansimbi eyigugu kufanele kubuyiselwe kulowo mnikazi. 30

(3) Ngaphambi kokubuyisela kwanoma yikuphi okusansimbo okuyigugu kunoma yimuphi umnini mayini ngokusho kwesigatshana (2), inkantolo noma iphoyisa elithintekayo lingayalela lowo mnikazi ukuba avikele umbuso ukuba ungaboshwa noma ungabhekani nezimangalo eziphathelene nalokho okusansimbi eyigugu noma anikeze igaranti ngokuphathelene nalokhu ngokuyala kwenkantolo noma iphoyisa elithintekayo. 35

(4) Ukunikeza umbuso okukhulunywa ngakho kusigatshana (1) akuthikamezi ilungelo angaba nalo umnini noma imuphi omunye umuntu ngale kwalowo olahlwe icala, kulokho okusansimbi eyigugu, uma lowo muntu egculisa inkantolo ephathekayo ukuthi yena ubengazi ukuthi leyo mpahla ibisetshenziswa noma izosetshenziswa ngenhloso noma ngokuphathelene nokwenziwa kwecala okukhulunywa ngalo noma ayengeke akuvimbele lokho kusetshenziswa. 40

### Ulwazi ngokusansimbi eyigugu

22. (1) Noma yimuphi umkhqizi noma othenga okusansimbi eyigugu kwamanye amazwe kufanele athumele engosini yezoCwanningo (Forensic Science Laboratory) yoMbutho wamaPhoyisa aseNingizimu Afrika izifanekiso noma izilinganiso zanoma yikuphi okusansimbi okukhqiiziwe noma okuthengwe kwelinye izwe njengoba kunqunywe. 50

(2) Inhloko yeNgosi yezoCwanningo noma umuntu ogunyazwe yiyo kufanele akhe futhi agcine inqolobane yemininingwane equkethe ulwazi ngokuphathelene nokusansimbi okukhulunywa ngakho esigatshaneni (1) njengoba kunqunywe.

### Imithethonkambiso

23. (1) UNgqongqoshe angakhipha isaziso ePhephabhukwini likaHulumeni iGazethi enze imithethonkambiso ephathelene— 55

- (a) the granting of any certificate, permit, licence or other authorisation issued or granted in terms of this Act;
- (b) the cancellation and suspension of any certificate, permit, licence or other authorisation issued or granted in terms of this Act;
- (c) the prevention of illegal acts pertaining to precious metals; 5
- (d) the requirements for broad-based socio-economic empowerment;
- (e) the details relating to precious metal bars that will be regarded as minted bars for the purposes of this Act, which details may include—
- (i) precious metal content;
- (ii) dimensions and sizes; 10
- (iii) mass;
- (iv) approved manufacturers and quantities;
- (v) required identifying marks;
- (vi) registration numbers;
- (vii) tamper-resistant seals and certificates; and 15
- (viii) general appearance and finish;
- (f) the circumstances under which minted bars may be held and traded and the documentation relating thereto;
- (g) the quantity of minted bars that may be produced in the country;
- (h) the manner and form in which a specimen contemplated in section 22 must be submitted for inclusion in the database, when such specimens must be submitted, the documentation that must accompany such specimens and the information that must be provided in respect of each such specimen; 20
- (i) the functions of Inspectors in the service of the Regulator;
- (j) documents that would be required as documentary proof of the origin of unwrought or semi-fabricated precious metal imported into the Republic; 25
- (k) carat gold alloys;
- (l) anything which may or must be prescribed in terms of this Act; and
- (m) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 30

(2) Any regulation contemplated in subsection (1)(e), (f) and (g), in relation to gold, may only be made with the concurrence of the Minister of Finance.

#### **Repeal of law, transitional provisions and savings**

- 24.** (1) The Mining Rights Act, 1967 (Act No. 20 of 1967), is hereby repealed. 35
- (2) Any application for a certificate or permit referred to in section 143 of the Mining Rights Act, 1967, for a recovery works licence in terms of section 144 of that Act or for a jeweller's permit in terms of section 145 of that Act that had not been finalised before this section took effect, must be finalised as if it had been lodged in terms of the corresponding provision of this Act. 40
- (3) Any permit or licence issued in terms of the Mining Rights Act, 1967, and still valid immediately before the date of commencement of this section continues in force for the period of two years after such date of commencement.
- (4) Any person who wishes to continue with any activity in terms of a permit or licence contemplated in subsection (3) after its expiry in terms of that subsection must apply for the relevant certificate, permit or licence in terms of this Act before its expiry. 45

- (a) nokunikezwa kwanoma yisiphi isitifiketi, imvume, ilayisensi noma yinoma yikuphi ukugunyazwa okukhishwe noma okunikezwe ngokulandisa kwaloMthetho;
- (b) ukusulwa noma ukumiswa kwanoma isiphi isitifiketi, imvume, ilayisensi noma yiliphi elinye igunya elikhishwe noma elinikeziwe ngokulandisa kwalo uMthetho; 5
- (c) ukuvinjelwa kwezenzo ezingekho emthethweni eziphathelene nokusansimbi eyigugu;
- (d) izidingo zokubonelela noma ukufukula ngokubanzi kwalabo ababenganakiwe ngokwezenhlalo nezomnotho; 10
- (e) neminingwane ephathelene nokusansimbi eyigugu egxotshiwe okuzothathwa njengokusansimbi eyigugu engagxotshiwe ngenhloso yaloMthetho, leyo mininingwane ingambandakanya—
- (i) okuqokethwe okusansimbi eyigugu;
- (ii) ububanzi nobude bohlonze nobukhulu; 15
- (iii) isisindo;
- (iv) abakhiqizi abavunyelwe namanani;
- (v) izimpawu ezidingekayo zokwazisa;
- (vi) izinombolo zokurejista;
- (vii) okokuvala okuvimbela ukuthiinteka noma ukuvula nezitifiketi; kanye 20
- (viii) nokubukeka nobunjalo.
- (f) izimo okuphathwa noma okungathengiswa ngaphansi kwazo okusansimbi eyigugu egxotshiwe nemibhalo ehambisana nalokhu;
- (g) inani lokusansimbi eyigugu egxotshiwe elingakhiqizwa kulelizwe;
- (h) indlela nohlobo okufanele iziboniso noma izilinganiso okukhulunywa ngazo esigabeni 22 zithunyelwe ngayo ukuze zimbandakanywe enqolobaneni yolwazi, ukuthi kufanele zithunyelwe nini lezo zibonakaliso, imibhalo okufanele iphelezele lezo zibonakaliso kanye nolwazi okufanelwe lunikezwe mayelana naleso sibonakaliso ngasinye; 25
- (i) imisebenzi yoMholi osebenzela uMlawuli; 30
- (j) imibhalo eyodingeka njengobufakazi obubhaliwe bokusansimbi eyigugu engabunjiwe noma engalungisiwe ngokuphelele ethengwe kwelinye izwe yalethwa kuRiphabhulikhi;
- (k) isilinganiso segolide eluxutshiwe;
- (l) noma iyiphi enye into enganqunywa noma okufanele inqunywe ngokusho kwaloMthetho; kanye 35
- (m) noma yikuphi okunye okuxhumene noma okuphathelene nokuphatha noma inqubo okufanele ukuba inqunywe ukuze kuphathwe noma kusetshenziswe ngokuyikho loMthetho.
- (2) Noma yimuphi umthethonkambiso okukhulunywa ngawo kuzigatshana (1)(e), (f) kanye no (g) ngokuphathelene negolide, ungenziwa kuphela ngokuvumelana noNgqongqoshe weZimali. 40

#### Ukwesulwa komthetho, imibandela yesikhashana kanye nokugcinwa

24. (1) UMthetho wamaLungelo eziMayini, ka-1967 ( uMthetho ongunombolo 20 ka-1967, uyesulwa. 45

(2) Noma yikuphi ukufaka isicelo sesitifiketi noma imvume okukhulunywa ngakho esigabeni 143 soMthetho wamaLungelo eziMayini ka-1967 ukuze kuvuselelwe ilayisensi ngokusho kwesigaba 144 salowo Mthetho noma semvume yobucwebecwebe ngokusho kwesigaba 145 salowo Mthetho ebesingakaphothulwa ngesikhathi lesi sigaba siqala ukusebenza, kufanele siphothulwe sengathi besifakwe ngokwesigaba esihambisana naso kulo Mthetho. 50

(3) Noma isiphi isitifiketi, imvume noma ilayisensi ekhishwe ngokulandisa koMthetho wamaLungelo eziMayini, ka-1967, futhi ibe isasebenza ngaphambi kosuku lokuqala ukusebenza kwalesi sigaba iyaqhubeka isebenze isikhathi esiyiminyaka emibili kusuka ngosuku okuqale ukusebenza kwalesi sigaba. 55

(4) Noma yimuphi umuntu ofisa ukuqhubeka nanoma yimuphi umsebenzi ngokuphathelene nesitifiketi, imvume noma ilayisensi okukhulunywa ngayo esigatshananeni (3) ngemuva kokuphela kwesikhathi ngokwaleso sigatshana kufanele afake isicelo sesitifiketi leso, imvume noma ilayisensi ngokulandisa kwalo Mthetho ngaphambi kokuphelelwa isikhathi. 60

(5) If a person has lodged an application in terms of subsection (4) the relevant permit or licence in respect of which the application has been lodged remains valid until such time as the application has been dealt with in terms of this Act.

(6) Except as provided otherwise in this section, anything done under any provision repealed by this Act must be regarded as having been done under the corresponding provision of this Act. 5

#### **Short title and commencement**

**25.** This Act is called the Precious Metals Act, 2005, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

(5) Uma ngabe umuntu efake isicelo ngokwesigatshana (4) isitifiketi, imvume noma ilayisensi okufakwe isicelo sayo ihlala isebenza kuze kube yisikhathi isicelo sibhekwa ngokwalo Mthetho.

(6) Ngaphandle uma kushiwo okunye kulesi sigaba, noma yini eyenziwa ngaphansi kwanoma imuphi umthetho noma isigaba esesulwe yilo Mthetho kufanele ithathwe njengeseyenziwe ngaphansi kwesigaba esiqondene noma esihambisanayo saloMthetho. 5

#### **Igama ngokuFingqiwe nokuqala ukusebenza**

25. Lo Mthetho uyobizwa ngo Mthetho wokusaNsimbi eyiGugu, ka-2005, futhi uyoqala ukusebenza ngosuku oluyomiswa nguMongameli ngesimemezelo ePhephabhukwini loMbuso i*Gazethi*. 10