

PRECIOUS AND SEMI-PRECIOUS STONES (PROTECTION) ACT
(Cap. 66:03)

JWANENG PRECIOUS STONE PROTECTION AREAS REGULATIONS, 1979

(Published on 20th July, 1979)

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FIRST SCHEDULE

SECOND SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Mineral Resources and Water Affairs by section 25 of the Precious and Semi-Precious Stones (Protection) Act, the following Regulations are hereby made —

- Citation and application • 1. These Regulations may be cited as the Jwaneng Precious Stone Protection Areas Regulations, 1979, and shall apply to the Jwaneng protection areas only.
- Inter-pretation 2. In these Regulations, unless the context otherwise requires, —
“authorized person” means any person authorized by the lawful authority to do anything in accordance with these Regulations;
“householder permit” means a householder permit granted under regulation 5;
“Jwaneng protection areas” means protection areas 1 and 2;
“Jwaneng Township” or “township” means the Jwaneng Township as declared by the Declaration of Jwaneng Township Notice, 1979;
- S.I. 51 of 1979 “lawful authority” means, in respect of —
(a) protection area 1, the Ngwaketse Land Board; and

- (b) protection area 2, the Jwaneng Township Authority, established by the Jwaneng Township Regulations, 1979; S.I. 52 of 1979
- “mining company” means De Beers Botswana Mining Company (Proprietary) Limited or its successors-in-title;
- “protection area 1” means the area specified in Part I of the Schedule to the Jwaneng Precious Stone Protection Areas Order, 1979; S.I. 59 of 1979
- “protection area 2” means the area specified in Part II of the Schedule to the Jwaneng Precious Stone Protection Areas Order 1979.
3. No person shall reside within protection area 1 without permission of the lawful authority granted in accordance with the provisions of the Tribal Land Act. Prohibited residence within protection area 1
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4. Notwithstanding that any person has a lease to property, a certificate of occupancy, a State Grant or any other title document to a residential plot or premises, no person shall reside within protection area 2 without permission of the lawful authority granted in accordance with the provisions of these Regulations. Prohibited residence within protection area 2
5. (1) Permission to reside within protection area 2 shall be granted by the issue of a householder permit by the lawful authority as set out in the First Schedule: Householder permit
- Provided that, in the case of the mining company, all employees of the mining company shall be covered by the householder permit of the company and such employees shall not be required to obtain separate householder permits, except that where any person ceases to be employed by the mining company such person shall be required to obtain a householder permit from the lawful authority in accordance with these Regulations.
- (2) A householder permit issued under subregulation (1) shall not be transferable and shall not confer on the holder any right, title or other interest in the premises therein.
6. Every person desirous of applying for a householder permit shall make an application by completing the form set out in the Second Schedule. Application for householder permit
7. (1) In considering an application for a householder permit the lawful authority shall first be satisfied – Grounds to be furnished before granting householder permit
- (a) that the applicant is duly qualified to assume responsibility as a householder for the performance of the obligations attaching to him as a holder of a householder permit;
- (b) that the applicant –
- (i) is a contractor to the mining company or is an employee of such contractor, such application having been supported in writing by the mining company;
- (ii) is suitably qualified and experienced to provide services necessary or desirable in the township; or
- (iii) is able to support himself and his dependants;
- (c) that the report of the Botswana Police Force on the applicant is satisfactory; and
- (d) as to any other matter as the lawful authority may consider appropriate in the circumstances.

(2) Notwithstanding subregulation (1), the lawful authority shall not issue a householder permit to any person who has been convicted of an offence relating to precious stones either in Botswana or elsewhere.

Rights and obligations of holder of householder permit

8. (1) Subject to subregulation (2), a householder permit issued to a householder shall permit the householder to have residing with him any person, whether or not such person is a member of his family.

(2) The householder shall ensure that at no time shall the number of persons staying or residing at the premises covered by a householder permit exceed the maximum number specified in such permit:

Provided that this subregulation shall not apply to the mining company.

(3) The lawful authority shall, with the consent of the Minister, make a determination of the maximum number of persons permitted to reside in each type of house constructed in the township from time to time.

(4) For the purposes of this regulation "persons" does not include children and dependants of a householder under the age of eighteen years or his spouse.

(5) The mining company shall bring the requirements of this regulation to the attention of its employees, and for the purposes of this regulation any employee of the mining company shall be deemed to be a householder.

Termination of householder permit

9. (1) A householder permit may be terminated by the lawful authority upon giving the holder of such permit not less than 7 days' notice of the termination, in writing, if any of the following grounds exist –

(a) the holder of a householder permit has been convicted of any offence relating to precious stones, either in Botswana or elsewhere;

(b) there are reasonable grounds to suspect that the holder of a householder permit is connected, or has at any time been connected, with the commission of an offence relating to precious stones, either in Botswana or elsewhere;

(c) the holder of a householder permit is in breach of –

(i) these Regulations or any conditions of a householder permit; or
(ii) any bye-law, regulation, rule or order lawfully binding on him, and fails to comply with a request to correct such breach before the expiry of the notice given under this regulation;

(d) the holder of a householder permit is convicted of an offence under these Regulations; or

(e) the holder of the householder permit otherwise ceases to qualify for a permit in accordance with the provisions of regulation 7:

Provided that the lawful authority may extend the period of notice of termination where special circumstances exist justifying such extension.

(2) The mining company shall terminate the employment of any person on being required to do so by the lawful authority if the lawful authority has determined that any of the grounds mentioned in subregulation (1) exist in regard to such employee and any employee of the mining company shall be deemed to be a holder of the householder permit for the purposes of subregulation (1):

Provided that the mining company may appeal to the Minister against the determination of the lawful authority and the decision of the Minister shall be final.

(3) Any person may appeal to the Minister against the decision of the lawful authority terminating his householder permit and the decision of the Minister shall be final.

10. (1) Any person who remains within the Jwaneng protection areas without permission in accordance with the provisions of these Regulations may, after being given 12 hours' written notice by the lawful authority to remove himself from such areas, be removed therefrom, —

Removal of unauthorized person

(a) in the case of protection area 1, by an officer of the Local Police Force or a police officer; and

(b) in the case of protection area 2, by a police officer.

(2) Any person who resists his removal by an officer of the Local Police Force or a police officer in accordance with subregulation (1) shall be guilty of an offence and be liable to a fine of P100 and to imprisonment for 3 months.

(3) For the purpose of this regulation an "officer of the Local Police Force" has the same meaning as is ascribed to "officer" in the Local Police Act.

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11. (1) Without prejudice to any powers of police officers conferred by any other written law, a police officer who —

Removal of suspected persons

(a) has reason to believe that any person has previously been convicted of an offence relating to precious stones in Botswana or elsewhere; or

(b) suspects, on reasonable grounds, that any person is connected, or has at any time previously been connected, with the commission of an offence relating to precious stones in Botswana or elsewhere,

may, —

(i) in the case of a holder of a householder permit, report the matter to the lawful authority for its consideration as to the termination of such permit;

(ii) in the case of an employee of the mining company, report the matter to the lawful authority for its determination as to whether the services of such employee with the mining company should be terminated; or

(iii) in the case of a person not being a holder of a householder permit, order such person to leave, and upon refusal may remove him or cause him to be removed.

(2) Any person who resists his removal by a police officer in accordance with subregulation (1) (b) (iii) shall be guilty of an offence and be liable to a fine of P100 and to imprisonment for 3 months.

12. If the lawful authority has reason to believe that there is a breach of the provisions of these Regulation, a police officer shall, on request by a lawful authority, search any premises for the purpose of ascertaining whether or not there is compliance with these Regulations.

Search of persons suspected of breach of these Regulations

13. No person who has been directed to leave or has been removed from any Jwaneng protection area, in accordance with the provisions of regulation 10 or 11, shall, within a period of 3 months of being ordered to leave or being removed, return to such area without written permission from the lawful authority.

Prohibition on return

Exclusion of persons

14. (1) The Minister may authorize the exclusion of any person who has previously been removed from a protection area from entering a protection area for any reason:

Provided that such person shall be served with a written notice to that effect by the Minister and, where the Minister is unable to ascertain his whereabouts, publication of such notice in the Gazette shall be sufficient for the purposes of this regulation.

(2) Any person who enters any protection area when the exclusion authority is still in force shall be guilty of an offence and be liable to a fine of P300 and to imprisonment for 6 months.

Duty to demarcate and survey a protection area

15. (1) The respective protection areas shall be demarcated or cause to be demarcated by the bodies following at their expense –

- (a) in respect of the outer boundary of protection area 1, the mining company; and
- (b) in respect of the outer boundary of protection area 2, the Jwaneng Township Authority:

Provided that where the boundaries of the protection areas are contiguous the responsibility to demarcate and maintain such boundaries shall be on the mining company.

(2) Each corner beacon of the Jwaneng protection areas shall be surveyed separately and the respective plans, on which shall be shown the co-ordinates of the corner points of such protection areas, shall be submitted for approval to the Director of Surveys and Lands and the Mining Commissioner.

Beacons and plates attached thereto Cap. 66:01 (Sub. Leg.)

16. (1) Whenever the boundary of a protection area changes its direction a beacon shall be erected. Each beacon shall be of the type prescribed in the Mines and Minerals (Demarcation of Mining Lease Areas) Regulations, except that the plate shall conform with the provisions of subregulation (2).

(2) Each beacon shall bear a plate firmly affixed to one side of it, near the top thereof. Each plate shall be made of metal or other durable material, e.g. plastic, and shall measure at least 30 cm. by 23 cm and shall have engraved or stamped and kept legible upon it, in both the English and Setswana languages, in respect of each of the protection areas, the particulars following –

- (a) "Jwaneng Precious Stone Protection Area 1 – Residence restricted by order of the Ngwaketse Land Board."; and
- (b) "Jwaneng Precious Stone Protection Area 2 – Residence restricted by order of the Jwaneng Township Authority."

Line marks

17. At intervals of not more than 1 000 m along the sides of each protection area line marks shall be erected. Each line mark shall conform with the requirements of an ancillary mark as prescribed in the Mines and Minerals (Demarcation of Mining Lease Areas) Regulations, except that it shall protrude 1,50 m above the ground, and a plate conforming with regulation 16 (2) and bearing the same inscription thereon, in both the English and Setswana languages, shall be affixed to it, so that the bottom of the plate shall be at least 1 m and 10 cm above the ground. Where a public road runs along the outer boundary of a protection area, the line marks shall be replaced by ancillary marks, as defined in regulation 18, and shall be placed on the side of the road which lies within the protection area, with the plate facing the road.

18. Ancillary marks shall be erected where the boundary line of a protection area is crossed by a road or track and shall be identical to line marks in regulation 17, except that the plate shall measure at least 1 m by 60 cm, and shall be placed so that its base is at least 80 cm above ground level. Each plate shall have engraved or stamped and kept legible upon it, in both the English and Setswana languages, in respect of each of the protection areas, the same particulars as will appear on the plate of the beacons in accordance with regulation 16 (2).

Ancillary marks and plates attached thereto

19. A belt aligned and centred from the boundary line of each protection area and having a width of at least 5 m (equivalent to two parallel cuts with a bulldozer) shall be cleared and kept completely free of bush, scrub, trees, and overhanging branches of trees by the body responsible for demarcating the protection area in accordance with regulation 15.

5 m belt aligned and centred upon boundary line

20. All beacons, line marks, ancillary marks and plates shall be kept in good order –

Conditions of boundary marks

- (a) in respect of protection area 1, by the mining company; and
- (b) in respect of protection area 2, by the Jwaneng Township Authority.

21. No person shall damage, deface or alter the position of any beacon, line mark, ancillary mark or plate established in accordance with these Regulations.

Prohibitions in respect of boundary marks

22. The Jwaneng Township Authority and the mining company shall once in every calendar year before the end of the second quarter thereof send to the Mining Commissioner, by registered post, a certificate each signed by each of them or their duly authorized representative stating, if the requirements of regulations 19 and 20 have been complied with by each one of them, that they have been complied with.

Duties of Jwaneng Township Authority and mining company

23. (1) Any person who contravenes the provisions of regulation 3, 4, 8, 13 or 21 shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 3 months.

Offences and penalties

- (2) If the mining company or the Jwaneng Township Authority fails –
 - (a) to demarcate the relevant protected area as required by regulation 15; or
 - (b) to comply with the provisions of regulation 19, 20 or 22,
 it shall be guilty of an offence and liable to a fine of P500.

24. The provisions of the Precious Stone Protection Areas Regulations shall not apply to the Jwaneng protection areas.

Cap. 66:03 (Sub. Leg.) not to apply

FIRST SCHEDULE

(reg. 5)

JWANENG TOWNSHIP AUTHORITY

Householder Permit Number

JWANENG HOUSEHOLDER PERMIT

THIS PERMIT IS TO CERTIFY THAT –

1. Mr/Mrs/Miss

(hereinafter called "the permitholder") is hereby authorized by the Jwaneng Township Authority (hereinafter called "the lawful authority") to reside in the following premises (hereinafter called "the premises")*

- 2. The permitholder may have any person, whether or not a member of his family, to stay with him. He must, however, ensure that at no time shall the total number of persons (excluding children under) staying at the premises exceed persons.
3. This permit shall be personal to the permitholder and shall in no way confer on him any right, title or other interest in the premises herein referred to and is not transferable.

DATED this day of, 19....

Jwaneng Township Authority

SECOND SCHEDULE

(reg. 6)

JWANENG TOWNSHIP AUTHORITY

Jwaneng Householder Permit Application Form

- 1. Name of Applicant*
2. Family Details (if any) -
(a) Name of spouse
(b) Name(s) of children under 18 years
3. Present Address
4. Description of premises for which residence permission is applied for**

