

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE GOLD TRADE ACT

CHAPTER 396 OF THE LAWS OF ZAMBIA

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CHAPTER 396

GOLD TRADE

An Act to regulate and control dealing in gold; to prescribe forms and fees for licences to deal in gold; and to provide for matters incidental to or connected with the foregoing.

16 of 1912
36 of 1933
20 of 1950
9 of 1951
2 of 1956
10 of 1957
19 of 1959
57 of 1964
12 of 1968
10 of 1984
13 of 1994
Government Notice
497 of 1964
Statutory Instruments
10 of 1964
5 of 1965

[18th December, 1912]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Gold Trade Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"dealer" includes a buyer, seller, broker, factor, giver or receiver or any other party to any dealing or transaction whatsoever with regard to gold, and "deal" shall be construed accordingly;

"gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(No. 10 of 1957)

PART II DEALING IN GOLDPART II

DEALING IN GOLD

3. No person, except as is in this Act enacted, shall have in his possession or shall buy, deal in, or receive by way of barter, exchange, pledge or otherwise, either as principal or agent, or shall sell, offer, or expose for sale, barter, exchange, pledge, or in any way, either as principal or agent, dispose of or deliver any gold, or be an accessory to such buying, dealing in, receiving, offering, exposing, disposing or delivery aforesaid unless such person so buying, dealing in, receiving, selling, offering, exposing, disposing or delivering as aforesaid shall be duly licensed or authorised to deal in gold either as buyer, seller, broker, factor or otherwise, as the case may be:

Prohibition on dealing in gold except by persons duly authorised

Provided that-

- (i) no such licensed dealer or duly authorised person shall deal in gold, otherwise than in the manner specially authorised by his licence or authority, or sell, offer or expose for sale, barter or pledge, either as principal or agent, or in any way dispose of or deliver any gold, unless such gold shall be actually the property or in the lawful possession of such licensed dealer in gold or duly authorised person;
- (ii) the onus of proof of the *bona fide* possession of or authority to deal in any such gold as aforesaid within the meaning of this section shall in all cases rest on such licensed dealer in gold or duly authorised person;
- (iii) any person who shall be unable to account satisfactorily for or to prove his right to the possession of gold found in his possession, or to produce his proper permit for the same in accordance with the provisions of this Act, shall be liable on conviction to the penalties hereinafter provided.

4. Nothing contained in section *three* shall prevent or prohibit a registered location holder from in any way dealing in or disposing of gold won and obtained by himself or on his behalf from locations of which he is the actual registered holder:

Saving as to location holders

Provided that-

- (i) the onus of proof that any gold dealt in was so obtained shall rest and be upon the person alleging that he is a registered location holder, and that the gold was obtained or won from the location of which he is the registered holder;
- (ii) nothing in this section shall render lawful his dealing in any gold with any unauthorised person.

(As amended by No. 20 of 1950)

5. Any licensed dealer in gold, registered location holder, banker, or duly authorised person buying or receiving by way of barter, pledge or otherwise, either as principal or agent, any gold from any person, or in any way dealing with the same with any person not being a licensed banker, licensed dealer in gold, registered location holder disposing of gold won from his own locations, or duly authorised person, shall be liable upon conviction to the penalties hereinafter provided, and shall in addition forfeit any licence which such person may hold, and any right of renewal of the same, for such period as the court may direct, and no such person shall thereafter be registered as the agent of any location holder.

Authorised persons only to deal with other authorised persons

(As amended by No. 20 of 1950)

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6. Any licensed or authorised dealer in gold in any way dealing in gold otherwise than in the manner specially authorised by the licence or authority held by or vested in him shall, on conviction thereof, be liable to the penalties hereinafter provided, and shall in addition forfeit his licence and any right of renewal of the same for such time as the court may deem fit to direct.

Forfeiture of licence

7. No person shall import or introduce into Zambia any gold won or obtained from any place outside Zambia except by or through one or other of the ports of entry duly appointed under the Customs and Excise Act, and any person importing or introducing such gold at any other port shall be liable upon conviction to the penalty hereinafter provided, and the gold so introduced and imported shall be forfeited in addition to any other penalties to which such person may be liable for any other offence under this Act.

Prohibition on importation of gold except through customs ports of entry
Cap. 322

8. (1) Any person introducing and importing gold from any place beyond the boundaries of Zambia shall, by written notice, inform the Controller of Customs and Excise or other proper official of the fact that he is so introducing such gold, and shall make a solemn declaration before such official stating-

Procedure by person so importing

- (a) the place from which such gold was obtained;
- (b) the date on which it was obtained;
- (c) the name and usual address of the person from whom and the manner in which it was obtained;
- (d) the weight and value of such gold and whether the same is gold itself refined or unrefined, or amalgam of gold, or slimes or scrapings.

(2) Any person who shall make a declaration which is to his knowledge false and untrue in any of the above particulars shall be deemed to have contravened subsection (1) and shall, upon conviction thereof, be liable to all the penalties which may be inflicted on any person who commits perjury, and the gold introduced and imported shall be confiscated.

9. If, in any proceeding under this Act, the court has to be satisfied either that the accused person, or any witness, or any other person, is not authorised or licensed to deal in gold within the meaning of the section under which such accused person is being tried, such accused person, witness, or other person shall be deemed to be unlicensed or unauthorised unless such accused person, witness, or other person, shall prove to the satisfaction of the court that he is duly licensed or authorised as aforesaid.

Burden of proof as to licence or authority

(As amended by No. 20 of 1950)

10. Any police officer of or above the rank of Sub Inspector, or the Chief Inspector of Mines, the Assistant Chief Inspector of Mines, Senior Inspectors of Mines, or any Inspector of Mines, or any officer duly authorised by the President in that behalf, whenever he shall have good cause to believe that any letter, parcel or package which is being despatched through the post office by any person not authorised or licensed to deal in gold, contains gold, or if such officer shall have cause to believe that such package, letter or parcel contains gold obtained from a person not authorised or licensed to deal in gold, may stop or cause to be stopped such letter, parcel or package aforesaid at any post office within Zambia, or while in possession of the post office either during the transit of such letter, parcel or package or otherwise, and thereupon any of the aforesaid officials may proceed to open and examine such letter, parcel or package in the presence of the postmaster or any post office official, and if there shall be discovered therein any gold sent by any unauthorised or unlicensed person, or obtained from any unauthorised or unlicensed person, the person who has despatched such letter, parcel or package shall be liable to the penalties hereinafter provided and all gold found in such letter, parcel or package shall be forfeited.

Stoppage in transit of any package believed to contain gold unlawfully dealt with

(As amended by No. 20 of 1950, No. 9 of 1951, No. 2 of 1956 and S.I. No. 10 of 1964)

11. Any police officer, when thereto authorised by a warrant granted under the hand of a magistrate having jurisdiction, may at any time enter in and upon and search any buildings, premises or railway trains, vehicles, ships or boats, or any other place where he may have good cause to suspect that any gold is unlawfully concealed, and may arrest and search any person then being upon such building, premises, railway train, vehicle, boat or other place, whom he may have good cause to suspect of having upon his person or in his possession any gold obtained in contravention of this Act, and should there be found upon such person, or in such premises, building, railway train, vehicle, boat or other place, any gold so obtained, may seize such person who may reasonably be suspected of being the possessor of or interested in such gold and as soon as possible bring such person before any magistrate having jurisdiction, and if such person shall then fail to produce a proper permit or licence for the possession of such gold or to account for the possession thereof to the satisfaction of the magistrate before whom such person is brought, such person shall be liable to all the penalties hereinafter provided, and such gold shall be forfeited and sold as hereinafter provided.

Powers of search

(As amended by No. 36 of 1993)

12. Should any gold seized or taken under the provisions of this Act be ordered to be forfeited by any competent court, such gold may be sold and the proceeds of such sale paid into the general revenues of the Republic:

Forfeiture of gold seized

Provided that-

- (i) any such gold shall not be sold until the expiry of six months after the date of the order forfeiting and confiscating the same, and after due advertisement of the sale of the same; and

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- (ii) should any person appear, claim and establish his right to any gold so forfeited or confiscated within the said period, the said gold shall be delivered to such person, but such person shall be liable to pay to the Government any reasonable expenses to which the Government may have been put in the proper retention, custody and advertisement of such gold.

(As amended by S.I. No. 5 of 1965)

13. No person who, by the order in writing of any court, shall sell any gold seized or forfeited under this Act, shall be liable in respect of such sale to any of the penalties provided for in this Act. Saving as to sale of gold seized or forfeited

14. All fines recovered and the proceeds of all gold forfeited and sold under the provisions of this Act shall be paid into the general revenues of the Republic. Disposal of fines, etc.

(As amended by S.I. No. 5 of 1965)

15. If any act should be done, omission made or transaction carried out, in contravention of the terms of this Act, the following persons shall be liable and suffer the penalties upon conviction for the act, transaction, or omission complained of: Persons liable for acts or omissions

- (a) the person actually doing the act or carrying out the transaction or making the omission; or
- (b) in case the act, transaction or omission complained of shall have been done or omitted on behalf of a bank or company, the manager or secretary of such bank or company; or
- (c) in case the act, transaction or omission was done or omitted on behalf of a partnership or firm, then all the members of such partnership or firm within the jurisdiction of the court before which conviction is sought:

Provided that in all proceedings against the persons mentioned in paragraphs (b) and (c), if such persons shall point out the person who actually did the act or made the omission complained of, and shall prove that such act or omission was done or made without his authority and not for his benefit, then the person so pointed out shall alone be liable for the penalties prescribed in this Act.

PART III LICENCESPART III

LICENCES

16. No person shall deal in gold either as buyer, seller, exporter or importer or in any other capacity whatever, nor shall any person carry on the business of a gold broker or factor unless such person shall be duly licensed for such purposes as aforesaid either as dealer, broker or factor, or in any other capacity, and any person contravening this section shall be liable to the penalties hereinafter provided. Licences to deal in gold

17. For every licence to deal in gold, other than a licence to be a gold broker or factor, there shall be paid a fee of two thousand five hundred fee units when the licence is first issued to a person, or a fee of twelve thousand five hundred fee units when the licence is renewed, and every such licence shall be issued by the Minister and shall be in Form 1 in the Schedule:

Fees and details of licences to deal in gold

Provided that every such licence shall, no matter when taken out, expire on the 31st December then next following.

(No. 20 of 1950 as amended by No. 10 of 1957, No. 10 of 1984 and Act No. 13 of 1994)

18. (1) For every licence to be a gold broker or factor there shall be paid a fee of one thousand two hundred and fifty fee units, and every such licence shall be issued by the Minister and shall be in Form 2 in the Schedule:

Gold broker's licence

Provided that every such licence shall, no matter when taken out, expire on the 31st December then next following.

(2) The Minister shall not issue any licence to deal in gold or to carry on the trade of gold broker or factor unless the person applying for such licence shall, when applying for the same, produce and lodge with him a certificate under the hand of a police officer of or above the rank of Sub Inspector in Form 3 in the Schedule:

Provided that-

- (i) a police officer of or above the rank of Sub Inspector shall not sign or issue such certificate until the person applying for such certificate shall, together with two sufficient sureties, have entered into a recognizance in Form 4 in the Schedule;
- (ii) no such certificate shall be issued to any person who shall, at the time of making application for such certificate, be the holder of or interested in any retail licence to deal in intoxicating liquors, or who shall have been convicted of any offence under this Act, and shall have been adjudged to have forfeited his licence until such time shall have elapsed during which he was adjudged incompetent to hold any licence;
- (iii) nothing in this section shall make it compulsory on any police officer to issue the certificate aforesaid.

(As amended by No. 20 of 1950, No. 10 of 1957, S.I. No. 10 of 1964, Act No. 10 of 1984 and Act No. 13 of 1994)

19. Any licence, permit or certificate which shall have been obtained by concealment or misrepresentation of matters which, if known, would have prevented the issue of any such licence, permit or certificate under this Act for any valid reason shall, upon proof of such concealment or misrepresentation before any magistrate, be forfeited, and the person who by such concealment or misrepresentation shall have obtained such licence, permit or certificate shall upon conviction be liable to the penalties hereinafter provided.

Forfeiture of licence when obtained by misrepresentation

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20. Any banker, assayer, or owner of metallurgical works may be authorised by the Minister without the production of the certificate mentioned in this Act to deal in gold, subject to such terms and conditions as to the amount of gold to be possessed or dealt in at any one time and the manner of dealing with such gold as the Minister may deem fit to impose, and without the payment of any fee or licence money.

Power to authorise bankers, assayers or owners of metallurgical works to deal in gold

(As amended by No. 10 of 1957)

21. On payment to him of the sum of one hundred and twenty- five fee units, the Minister may issue to any person a permit in Form 5 in the Schedule to buy, sell, deliver or receive any gold:

Permits to buy or sell gold

Provided that no such permit to buy or receive shall be granted unless the applicant shall make a declaration either in Form 6 or 7 in the Schedule. Any person making a false declaration to obtain such permit shall be guilty of an offence.

(No. 20 of 1950 as amended by No. 2 of 1956, No. 12 of 1968 and Act No. 13 of 1994)

22. Any person convicted of contravening either section *three, five, six, seven, ten, eleven, sixteen, twenty* or *twenty-one* shall be liable to a penalty not exceeding thirty thousand penalty units or imprisonment with or without hard labour for a period not exceeding five years, or to both for each offence so committed, and all gold, the subject of any transaction in contravention of this Act, shall be confiscated to the Government by the court before which the proceedings relating thereto shall be taken, or by any other competent court.

Permits to buy or sell gold

(As amended by No. 20 of 1950 and Act No. 13 of 1994)

23. Every licensed gold dealer and every holder of a permit shall be bound to exhibit his licence or permit to any police officer of or above the rank of Sub Inspector or the Chief Inspector of Mines, the Assistant Chief Inspector of Mines, Senior Inspectors of Mines, or any Inspector of Mines or other official thereto duly authorised by the President, and every such licensed person or persons holding a permit who shall refuse or neglect to produce the licence or permit to such authorised person when called upon to do so shall for the first offence be liable to a penalty not exceeding three thousand penalty units and for a subsequent offence a penalty not exceeding nine thousand penalty units and shall, in addition, be liable to forfeit any licence or permit held by him or any renewal of the same for such period as the court shall order.

Production of licence, permit, etc.

(As amended by No. 20 of 1950, No. 9 of 1951, No. 2 of 1956, S.I. No. 10 of 1964 and No. 13 of 1994)

SCHEDULE

PRESCRIBED FORMS

FORM OF LICENCE TO DEAL IN GOLD

I,on this day of
19, do hereby authorise and empowerwho has
produced to me his certificate required by section 18 of the Gold Trade Act, to deal in gold
within Zambia for the
ending on theday of 19
and no longer.

.....
(Signed)

(No. 10 of 1975 as amended by S.I. No. 5 of 1965)

FORM OF LICENCE FOR GOLD BROKER OR FACTOR

I,on this day of
19, do hereby authorise and empowerwho has
produced to me his certificate required by section 18 of the Gold Trade Act, to act as gold
broker or factor within Zambia for the
ending on theday of 19
and no longer.

.....
(Signed)

(No. 10 of 1957 as amended by S.I. No. 5 of 1965)

FORM OF GOLD DEALER'S OR GOLD BROKER'S OR FACTOR'S CERTIFICATE

I, Police Officer,
of do hereby certify
that is a fit and proper
person to receive a licence to deal in/act as Broker of/act as Factor of Gold.

(Station)

.....
Police Officer

(Date)

(No. 20 of 1950 as amended by S.I. No. 10 of 1964)

RECOGNIZANCE UNDER THE GOLD TRADE ACT

On the day of ,19
appeared before me magistrate of the District of
..... and acknowledge themselves to owe the Republic
to wit the said the sum of one thousand kwacha
and the said and each
the sum of one thousand kwacha of good and lawful money to be respectively made and levied of their several goods,
chattels, lands and tenements to the use of the Republic if the
said shall fail in performing the conditions underwritten.

The condition of this recognizance is that if the said
shall strictly conform to and abide by all and singular the provisions of the Gold Trade Act during the time the licence to be
by him obtained under that Act shall be in force, then this recognizance shall be null and void or else shall remain in full
force and effect.

The said and the said
and the said do hereby further jointly and severally
agree that in the event of the said being convicted
of contravening any provision of this Act this recognizance shall *ipso facto* become at once executable without the
necessity of further process just as if judgment had been obtained upon it.

Taken and acknowledged this day and year above written.

Proposed Licensee

Surety

Surety

Magistrate

(As amended by S.I. No. 10 of 1964)

FORM OF PERMIT

Permission is hereby granted unto
to (a) gold of the weight of
..... from/to
(Date)

(Signed)

(a) Insert here "buy", "sell", "deliver" or "receive".

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(No. 20 of 1950 as amended by No. 2 of 1956
and No. 12 of 1968)

FORM OF DECLARATION OF PERSON DESIRING A PERMIT

I, of do solemnly and sincerely declare as follows:

(1) I am desirous of receiving from gold of the weight of which I require for my own use and not for the purposes of trade here or elsewhere:

(2) The said from whom I am to receive the said gold is, to the best of my knowledge and belief, duly authorised under the provisions of the Gold Trade Act to be in possession of the said gold, and I make this solemn declaration conscientiously believing the same to be true.

Declared before me this day of 19

.....
Magistrate

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(As amended by No. 36 of 1933)

FORM OF DECLARATION OF PERSON DESIRING A PERMIT

I, of do solemnly and sincerely declare as follows:

- (1) I am desirous of receiving from gold of the weight of which I require for use in my trade as a and not for sale or other disposal.
- (2) The said from whom I am to receive the said gold is, to the best of my knowledge and belief, duly authorised under the provisions of the Gold Trade Act to be in possession of the said gold, and I make this solemn declaration conscientiously believing the same to be true.

Declared before me this day of 19

.....
Magistrate

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(No. 20 of 1950)