

N.R.C.D.32

DIAMONDS ACT, 1972

ARRANGEMENT OF SECTIONS

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N.R.C.D.32

DIAMONDS ACT, 1972

AN ACT to regulate the mining and sale of diamonds and to provide for related matters.

1. Restriction on the sale of diamonds

(1) A person who finds a diamond shall sell it to the Diamond Marketing Corporation or its local buying agent

(a) within four weeks after the expiry of the month in which that person found the diamond, or

(b) within a further period permitted in writing by the Corporation.

1. This Act was issued as the Diamonds Decree, 1972 (N.R.C.D. 32) made on the 23rd day of February 1972 and notified in the *Gazette* on 25th February, 1972.

(2) A person, other than the Corporation, shall not sell or dispose of a diamond whether for valuable consideration or otherwise.

(3) The Corporation may sell or dispose of a diamond to a person whether for commercial or industrial purposes or otherwise, subject to the conditions, which the Minister may, by legislative instrument, prescribe.

(4) The conditions referred to in subsection (3), may include conditions in respect of the failure to use the diamond for the purpose for which it was sold or disposed of.

2. Restriction on purchase and export of diamonds

(1) A person, other than the Corporation or a licensed buyer or a person to whom the Corporation sells diamonds under section 1 (3), shall not buy a diamond.

(2) A person shall not export a diamond except a diamond which is the property of the Corporation or a diamond the export of which has been authorised on the written authority of the Corporation.

3. Licensed buyers

The Corporation may appoint Licensed buyers to purchase diamonds for or from the

Corporation, and may grant licences to those buyers subject to the conditions prescribed by the Corporation.

4. Finding of diamonds

(1) The finder of a diamond shall report the finding of the diamond to the Corporation and deposit the diamond with the Corporation.

(2) On the report or deposit being made, the Corporation shall record

(a) the full name, address, occupation and nationality of the finder, (b)

the weight and number of the diamond found and deposited, (c) the

date of the finding,

(d) the exact place where the diamond was found,

(e) the date of the deposit; and

(j) any other particulars the Corporation considers relevant.

(3) A duplicate copy of the record made by the Corporation shall be supplied to the finder without charge at the time when the record is made.

5. Enquiries

(1) For the purposes of this Act, the Corporation may make enquiries to determine

(a) the good faith of the person reporting the finding or the accuracy of the particulars reported and recorded under section 4, or

(b) whether a contravention of this Act has occurred.

(2) Where, as a result of the enquiries, it appears that the person reporting the finding is not the owner or person otherwise lawfully entitled to the custody or possession of the diamond, the Corporation shall not make the payment for the diamond to the person

reporting the finding, but shall make the payment directly to the person whom it reasonably believes is the owner or person otherwise lawfully entitled to the custody or possession of the diamond.

6. Diamond prices

The Corporation may, with the prior approval in writing of the Minister, control and determine the prices to be paid to diamond finders for their diamonds.

7. Diamond areas

The Minister may, by executive instrument, declare areas of land to be diamond areas, and may divide them into areas of exploitation and areas of restriction, and may define the boundaries of the areas.

8. Regulations for diamond areas

(1) The Minister may, by legislative instrument, make Regulations imposing conditions and restrictions in respect of the movement of persons, and the conveyance of articles into, from and within diamond areas, areas of restriction and areas of exploitation.

(2) The Minister responsible for Internal Affairs may, by legislative instrument,

(a) exclude aliens from entering or remaining in diamond areas except in accordance with a valid permit issued for that purpose, and

(b) provide for the granting of permits to aliens to enter diamond areas and the matters incidental to the permits including fees payable and forms.

(3) The Regulations may apply to the diamond areas or to a specified part of the diamond areas.

9. Regulations for mining concessions

(1) The Minister may, by legislative instrument, make Regulations

(a) to empower the holder of a mining concession to demarcate a part of the concession area not exceeding one thousand square feet, and not including a dwelling house or the ground attached to the concession area without the consent of the occupier, and to keep the part demarcated while diamond mining operations are in progress;

(b) to prohibit the entry of an unauthorised person on the demarcated part;

(c) to restrict the entry of persons into towns or villages situated on mining concessions; and

(d) to authorise the police to search persons, buildings and articles within demarcated parts and towns or villages situated on mining concessions.

(2) The Regulations may apply to the whole or a part of the Republic, or to a particular mining concession or town or village situated on a mining concession.

10. Failure to sell to the Corporation

A finder who fails to sell a diamond to the Corporation or its local buying agent in accordance with section 1 commits an offence and is liable on conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment?

11. Offences triable on indictment

A person who

- (a) offers to sell or sells or disposes of a diamond except as authorised under this Act,
- (b) buys or exports a diamond except as authorised under this Act,
- (c) being found in possession of a diamond, does not prove to the satisfaction of the Court that the diamond was lawfully obtained,
- (d) searches for diamonds on land which is the subject of a mining concession without the authority of the concession holder and otherwise than under a claim of right made in good faith,
- (e) conceals or carries away a diamond with intent to evade a provision of this Act, or
- (f) being an employee, steals a diamond,

commits an offence and is liable on conviction on indictment to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment?

12. Offences triable summarily

A person who

- (a) being the finder of a diamond, fails to report the finding and deposit it in accordance with section 4, or fails to give or incorrectly gives any information required under that section, or
- (b) contravenes a provision of an instrument made under section 1 (3), 8 or 9,
or
- (c) falsely holds out as being a finder, a licensed buyer or a person acting

under the written authority or instructions of the Corporation, commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.⁴

13. Alien offender liable to deportation

Where an alien is convicted of an offence under this Act, the alien is, after paying the fine or serving the sentence, liable to deportation under section 36 of the Immigration Act, 2000 (Act 573).

14. Forfeiture

(1) On convicting a person of an offence against this Act, the High Court shall order the forfeiture to the Republic of the diamonds in respect of which the offence had been committed.

(2) Forfeited diamonds shall be disposed of for the benefit of the public revenue in a manner directed by the Minister.

15. Evidence

(1) For the purpose of this Act, a person is in possession of a diamond if the diamond, although not in that person's actual possession, is at the material time in the custody, power or under the control of that person.

(2) Where a question is in issue under this Act

(a) whether an article is or is not a diamond, the burden of proving that it is not a diamond lies on the person who alleges that it is not a diamond, and in the absence of that proof the article shall be deemed to be a diamond;

(b) whether a diamond is or is not of Ghanaian origin, the burden of proving that it is not of Ghanaian origin lies on the person who alleges that it is not of Ghanaian origin, and in the absence of that proof the diamond shall be deemed to be of Ghanaian origin.

16. Interpretation

In this Act, unless the context otherwise requires,

"Corporation" means the Diamond Marketing Corporation established by section 1;

"finder" means the person who finds, produces or wins diamonds; but where a person is employed for the purpose of finding diamonds on behalf of any other person, the employer and not the employee is, for the purposes of this Act, the finder;

"mining concession" means a writing by which there is granted a right, an interest or a property in or over land in respect of diamonds;

2. Amended by section 1 (a) of the Diamonds (Amendment) Law, 1989 (P.N.D.C.L 216). The provision reads:

"10. Failure to sell to Corporation

Any finder who fails to sell any diamond to the Corporation or its local buying agent in accordance with section 1 shall be guilty of an offence and liable on summary conviction by a District Court to a fine not

exceeding five thousand cedis or to imprisonment not exceeding two years or to both."

3. Amended by section 1 (b) of the Diamond (Amendment) Law, 1989 (P.N.D.C.L 216).

4. Amended by section 1 (c) of the Diamond (Amendment) Law, 1989 (P.N.D.C.L 216).

17. Repeals and savings

*Spent*⁵

"Minister" means the Minister responsible for Mines.

5. The section reads:

"(1) The following enactments are hereby repealed:

- (a) the Diamond Mining Industry Protection Ordinance (Cap. 152) as subsequently amended;
- (b) section 9B of the Minerals Act, 1962 (Act 126);
- (c) section 9A and the Second Schedule to the Aliens Act, 1963 (Act 160);
- (d) the Minerals Act, 1962 (Amendment) Decree, 1962 (N.L.C.S. 228);
- (e) the Aliens Act, 1963 (Amendment) Decree, 1963 (N.L.C.D. 259).

(2) Notwithstanding the repeal of the above enactments, the following statutory instruments shall continue in force as if made under the corresponding provisions of this Decree, until modified or revoked:

- (a) the Birim (No. 1) Diamond Area Order, 1926 (No. 19);
- (b) the Diamond Mining Industry Protection Regulations, 1927 (No.9);
- (c) the Aliens (permits for Prohibited Areas) Regulations, 1969 (LI. 612);
- (d) the Aliens (Permits for Prohibited Areas) (Amendment) Regulations, 1969 (LI. 616):
Provided that all references to "prohibited areas" in any such instrument shall be construed for the purposes of this Decree as references to diamond areas.

(3) Notwithstanding the repeal of the Second Schedule to the Aliens Act, 1963 (Act 160), the areas described in that Schedule shall, until provision is otherwise made by instrument under section 7 of this Decree, be deemed for the purposes of this Decree to be diamond areas."