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State Gem Corporation Act, No. 13 of 1971

Date of Assent : March 9, 1971

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State Gem Corporation Act, No. 13 of 1971

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION FOR THE DEVELOPMENT, REGULATION AND CONTROL OF THE GEM INDUSTRY, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: March 9, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the State Gem Corporation Act, No. 13 of 1971, and shall come into operation on such date as may be appointed by the Minister of Finance by Order published in the *Gazette*, hereinafter referred to as the "appointed date".

Short title
and date of
operation.

PART I

CONSTITUTION OF THE STATE GEM CORPORATION

2. (1) There shall be established a Corporation which shall be called the "State Gem Corporation", in this Act referred to as "the Corporation", and which shall consist of the persons who are for the time being members of the Corporation under section 3.

Establishment
of the
State Gem
Corporation.

(2) The Corporation shall by the name assigned to it by sub-section (1) be a body corporate, and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The Corporation shall consist of—

Membership
of the
Corporation.

(a) five members appointed by the Minister of Finance;

(b) one member nominated by the Minister to whom the subject of trade is for the time being assigned from among the officers of his Ministry; and

(c) one member nominated by the Minister to whom the subject of lands is for the time being assigned from among the officers of his Ministry.

The members shall be appointed or nominated from among persons who are qualified for membership of the Corporation.

(2) A person shall be disqualified for being appointed or continuing as a member of the Corporation—

(a) if he is a Senator or a Member of Parliament;
or

(b) if he, directly or indirectly, by himself or by any other person on his behalf or for his use or benefit, holds or enjoys any right or benefit under any contract made by or on behalf of the Corporation, except as a shareholder (other than a director) in any incorporated company; or

(c) if he, directly or indirectly, by himself or by any other person on his behalf, has any interest or derives any benefit in or from any work being done for the Corporation, except as a shareholder (other than a director) in any incorporated company; or

(d) if he, directly or indirectly, by himself or by any other person on his behalf, is engaged in the gem industry.

(3) Where a member of the Corporation is a shareholder (other than a director) in any incorporated company which has entered into any contract with, or is doing any work for, the Corporation, he shall disclose to the Minister of Finance the nature and extent of the shares held by him in such company.

(4) The appropriate Minister may, without assigning any reason, remove a member of the Corporation from office. Such removal shall be final and conclusive, and shall not be called in question in any court.

(5) A member of the Corporation who has been removed from office shall not be entitled to compensation for any loss or damage suffered by him, directly or indirectly, by reason of such removal.

(6) A member of the Corporation may at any time resign his office by letter addressed to the appropriate Minister.

(7) Where a member of the Corporation is temporarily unable to discharge or perform the functions or duties of his office by reason of illness or other infirmity or absence from Ceylon, or for any other cause, the appropriate Minister may appoint or nominate, as the case may be, some other person who is qualified to be a member of the Corporation to act in his place as such member.

(8) A member of the Corporation shall vacate his office by death, removal, resignation or effluxion of time.

(9) A member of the Corporation shall, unless he earlier vacates his office by death or removal or resignation, hold office for a period of five years:

Provided, however, that any such member appointed or nominated in place of a member of the Corporation who has vacated his office otherwise than by effluxion of time shall, unless he earlier vacates his office by death or removal or resignation, hold office only for the unexpired part of the term of office of the member whom he succeeds.

(10) No act or proceeding of the Corporation shall be invalid by reason only of the existence of a vacancy among its members, or any defect in the appointment or nomination of a member thereof.

(11) In this section, "appropriate Minister" in relation to a member of the Corporation, means the Minister by whom that member was appointed or nominated.

4. All or any of the members of the Corporation may be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Minister of Finance. Such remuneration shall be paid by the Corporation.

Remuneration and conditions of service of members of the Corporation.

5. (1) Subject to the provisions of sub-section (3), the Corporation may employ all such persons as may be necessary for carrying out the work of the Corporation.

Employees of the Corporation.

(2) The employees of the Corporation shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Corporation. Such remuneration shall be paid by the Corporation.

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(3) No person shall be employed, or continue to be employed, by the Corporation—

(a) if such person is not, or ceases to be, a citizen of Ceylon under the written law applicable in that behalf, except with the prior sanction of the Minister of Finance; or

(b) if he, directly or indirectly, by himself or by any other person on his behalf or for his use or benefit, holds or enjoys any right or benefit under any contract made by or on behalf of the Corporation, except as a shareholder (other than a director) in any incorporated company.

Delegation of powers, functions or duties of the Corporation.

6. (1) The Corporation may delegate to any member or employee of the Corporation any of its powers, functions or duties.

(2) Every delegate appointed under sub-section (1) shall exercise, discharge or perform the power, function or duty delegated to him subject to the general or special directions of the Corporation.

Chairman of the Corporation.

7. (1) The Minister of Finance shall appoint a Chairman of the Corporation from among the members of the Corporation.

(2) If the Chairman is by reason of illness or other infirmity or absence from Ceylon, or for any other cause whatsoever, unable to perform the duties of his office, the Minister of Finance may appoint one of the members of the Corporation to act in his place.

(3) The Minister of Finance may, without assigning any reason, terminate the appointment of the Chairman. The termination of the office of the Chairman shall be final and conclusive, and shall not be called in question in any court.

(4) The Chairman may resign the office of Chairman by letter addressed to the Minister of Finance.

(5) Subject to the provisions of sub-section (3) or sub-section (4), the term of office of the Chairman shall be the period of his membership of the Corporation.

Seal of the Corporation.

8. (1) The seal of the Corporation shall be in the custody of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Corporation.

(3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of the Corporation both of whom shall sign the instrument or document in token of their presence.

9. The quorum for a meeting of the Corporation shall be three members of the Corporation.

Quorum for meeting of the Corporation.

10. Subject to the other provisions of this Act, the Corporation may regulate the procedure in regard to meetings of the Corporation and the transaction of business at such meetings.

Regulation of procedure.

PART II

FUNCTIONS, POWERS AND DUTIES OF THE CORPORATION

11. (1) The Minister of Finance may give the Corporation general or special directions in writing as to the exercise, discharge and performance of the powers, functions and duties of the Corporation, and the Corporation shall give effect to such directions.

Powers of the Minister of Finance in relation to the Corporation.

(2) The Minister of Finance may from time to time direct the Corporation to furnish to him in such form as he may require, returns, accounts and other information with respect to the property and business of the Corporation and the Corporation shall carry out every such direction.

(3) The Minister of Finance may from time to time order all or any of the activities of the Corporation to be investigated and reported on by such person or persons as he may specify, and upon such order being made the Corporation shall afford all such facilities and furnish all such information as may be necessary to carry out the order.

12. The Corporation may, subject to the provisions of this Act, exercise, discharge and perform its powers, functions and duties within the whole, or any part, of Ceylon, or outside Ceylon.

Scope of the authority of the Corporation.

13. (1) The Corporation shall have the following functions:—

Functions of the Corporation.

(a) the promotion and development of the gem industry;

(b) the promotion and development of research in gems and the gem industry;

- (c) the advancement of the skill of persons employed or engaged in the gem industry;
- (d) the initiation and implementation of schemes for the promotion and development of the gem industry;
- (e) the exploitation of the market for gems, whether in or outside Ceylon;
- (f) to carry on the gem industry, whether in or outside Ceylon;
- (g) the regulation, supervision and control of the gem industry;
- (h) the regulation and control of the terms and conditions of employment of persons who work in the gem industry, and in particular, the safety measures to be taken to protect such persons from danger to life and limb;
- (i) the prevention of the unlawful removal of gems from Ceylon;
- (j) to be the sole authority responsible for the alienation of the right to mine for gems in or over Crown land, or in or over land disposed of by the Crown where the mining or gemming rights remain with the Crown, whether by reason of any reservation or otherwise; and
- (k) the administration of any scheduled written law in so far only—
 - (i) as it is applicable in the case of gems or the gem industry; or
 - (ii) as it may be necessary so to do for the purpose of enabling the Corporation to exercise, discharge and perform its powers, functions, and duties.

(2) The Corporation shall in accordance with by-laws made in that behalf under this Act, be the sole authority responsible for the issue of licences to carry on the gem industry, whether such industry is or is not carried on in or over any Crown or private land. The preceding provisions of this sub-section shall have effect notwithstanding anything to the contrary in any other written law.

(3) Every licence issued under the Gemming Ordinance, No. 5 of 1890, and in force on the day immediately preceding the appointed date, shall be

deemed for all purposes to be a licence issued by the Corporation and the Corporation may amend or modify the terms and conditions of such licence or may, in addition to the terms and conditions of the licence, add further terms and conditions.

(4) Every lease under the Crown Lands Ordinance of the right to mine or gem in any Crown land or in any land which has been disposed of by the Crown with a reservation of mining rights in favour of the Crown shall, if such lease is in force on the day immediately preceding the appointed date, be deemed for all purposes to be a lease granted by the Corporation and the Corporation may vary the terms and conditions subject to which the lease was granted or may, in addition to the terms and conditions of such lease, add further terms and conditions.

14. (1) Every person who mines for gems on Crown land, whether under the authority of a licence issued or deemed to have been issued by the Corporation or under the authority of a lease granted or deemed to have been granted by the Corporation, shall deliver to the Corporation any gems obtained by him from such Crown land.

Provisions
relating to
gems obtained
from Crown
lands.

(2) Where any gem is delivered to the Corporation under sub-section (1), the Corporation may—

- (a) purchase such gem at a price fixed by the Corporation; or
- (b) make arrangements to sell such gem to any other person or persons with the consent of the owner or owners of the gem; or
- (c) decline either to purchase, or to make arrangements to sell, such gem.

(3) Where any gem delivered to the Corporation under sub-section (1) is purchased by the Corporation or is sold to any other person as a result of arrangements made by the Corporation, the Corporation shall retain as its ground share a prescribed proportion of the proceeds of the sale of such gem.

(4) Where the Corporation declines to purchase, and to make arrangements to sell, any gem delivered to the Corporation under sub-section (1), the Corporation shall return such gem to the person who delivered it to the Corporation together with a document stating that the Corporation has declined to purchase, and to make arrangements for the sale of, such gem.

(5) No person shall purchase from any other person any gem obtained by such other person by mining on Crown land whether under the authority of a licence issued or deemed to have been issued by the Corporation or under the authority of a lease granted or deemed to have been granted by the Corporation unless the Corporation has declined to purchase such gem and to make arrangements for its sale.

Modification,
&c., of any
scheduled
written law.

15. Where it is necessary so to do for the purpose only of enabling the Corporation to exercise, discharge or perform any of its powers, functions or duties, regulations may be made under this Act providing that any such scheduled written law as shall be specified in such regulations shall, in its application in the case of gems or the gem industry, have effect subject to such exceptions, modifications or amendments as shall be specified therein; and accordingly so long as such regulations are in force the provisions of that law shall, notwithstanding anything to the contrary in that law, so apply subject to such exceptions, modifications or amendments.

Exclusive right
to import or
export gems
vested in the
Corporation.

16. (1) Subject to the provisions of sub-section (3), the right to carry on business as an importer or exporter of gems into or from Ceylon is hereby vested exclusively in the Corporation, and accordingly—

(a) no person, other than the Corporation, shall carry on business as an importer or exporter of gems into or from Ceylon; and

(b) any licence authorizing such import or export issued to any other person by any authority under any written law prior to the appointed date shall be deemed to be invalid and of no effect.

(2) In the exercise of the exclusive right conferred on it by sub-section (1), the Corporation may import or export gems into or from Ceylon not merely on its own behalf, but also for or on behalf of any other person.

(3) The import or export of gems into or from Ceylon by any person, other than the Corporation, shall be deemed not to be a contravention of the provisions of sub-section (1), if, but only if, such import or export is under the authority, and in accordance with

the terms or conditions, of any Order which the Minister of Finance is hereby authorized, from time to time, to make and publish in the *Gazette*.

(4) No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason of his licence authorizing him to import or export gems becoming invalid and of no effect by virtue of the operation of the preceding provisions of this section.

(5) Any person who, even on one occasion only, imports or exports any gem into or from Ceylon shall, for the purposes of this Act, be deemed to carry on the business of an importer or exporter, as the case may be, of gems into or from Ceylon.

(6) The import or export of gems into or from Ceylon by any person through the Corporation shall be deemed not to be a contravention of the provisions of sub-section (1).

17. (1) The Minister of Finance may, subject to the provisions of sub-section (2), by Order published in the *Gazette* transfer to the Corporation any immovable property of the Crown required for the purposes of the Corporation.

Transfer of
Crown property
to the
Corporation.

(2) No immovable property of the Crown shall be transferred to the Corporation under sub-section (1) without the prior concurrence of the Minister to whom the subject of Crown lands is for the time being assigned.

(3) Upon the publication of an Order under sub-section (1) in the *Gazette*, the properties specified in the Order shall vest in and be the properties of the Corporation.

18. The Minister of Finance may, by Order published in the *Gazette*, approve of the proposed acquisition of any land, other than Crown land, for the purposes of the Corporation, and where such an Order is so published, the land specified in the Order shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act, and, when so acquired, shall be transferred to the Corporation under that Act.

Compulsory
acquisition of
any land for the
Corporation.

General powers
of the
Corporation.

19. For the purpose of the discharge of its functions under this Act, the Corporation may—

- (a) acquire and hold any movable or immovable property, and dispose of any movable or immovable property acquired or held by it so, however, that no such immovable property shall be so disposed of without the prior approval of the Minister of Finance;
- (b) establish its own departments or agencies, or make contracts or other arrangements with Government Departments, local authorities or any other person; and
- (c) do all such other acts or things whatsoever as may be necessary for that purpose.

Power of
Corporation to
make rules.

20. (1) The Corporation may make rules in respect of all or any of the following matters:—

- (a) the establishment of a provident fund for its employees, the contributions to be made to such fund both by the Corporation and such employees, and the compulsory deduction of such contributions from the salaries of such employees; and
- (b) the meetings of the Corporation, and the procedure to be followed at such meetings.

(2) No rule made under sub-section (1) shall have effect until it has been approved by the Minister of Finance.

Power of
Corporation
to make
by-laws.

21. (1) The Corporation may, with the concurrence of the Minister of Finance, make by-laws for or in respect of all or any of the following matters:—

- (a) all matters for which by-laws are necessary to enable the Corporation to effectively exercise, discharge and perform its powers, duties and functions under this Act;
- (b) all matters for which by-laws are necessary for the purpose of carrying out the principles and provisions of this Act; and
- (c) all matters required to be prescribed under this Act, or for which by-laws are authorized to be made under this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Corporation may, with the concurrence of the Minister of Finance, make by-laws for or in respect of all or any of the following matters:—

- (a) the prohibition of the carrying on of the gem industry, (other than the importing of gems into, or the exporting of gems from, Ceylon) except under the authority, or otherwise than in accordance with the terms or conditions, of any licence issued by the Corporation;
- (b) the making of applications for such licences, and the procedure to be followed for the making and disposal of such applications;
- (c) the imposition and recovery of fees for the issue of such licences and the renewal of such licences and the levy and recovery of charges in respect of services rendered by the Corporation in the exercise, discharge or performance of its powers, functions or duties under this Act;
- (d) the circumstances in which applications for such licences may be granted or refused by the Corporation;
- (e) the terms and conditions subject to which such licences may be issued, and the period of validity of such licences;
- (f) the circumstances in which such licences may be cancelled or suspended by the Corporation;
- (g) appeals to the Minister of Finance against such refusal, cancellation or suspension;
- (h) the procedure to be followed for the making and disposal of such appeals;
- (i) the purchase, and the arrangements to be made for the sale, of gems delivered to the Corporation under the Act;
- (j) the making of declarations, from time to time, by persons other than the Corporation, carrying on the gem industry of the total value of gems belonging to such persons and the members of their families, if such value exceeds such amount as shall be specified in the by-law; and
- (k) all other matters connected with or incidental to the matters aforesaid.

(3) In particular, but without prejudice to the generality of the powers conferred by sub-section (1) or sub-section (2), by-laws made in respect of the issue of licences may prohibit the issue of such licences until the prospective licensee has, if called upon so to do by the Corporation, furnished to the Corporation, cash security of such an amount, not exceeding the maximum amount prescribed by by-law, as may be determined by the Corporation to be necessary for the purpose of ensuring his compliance with the terms and conditions of his prospective licence, and the provisions of this Act and the by-laws made thereunder. Different amounts of cash security may be demanded by the Corporation from prospective licensees of different classes or descriptions so, however, that the amount so demanded shall not exceed the maximum amount hereinbefore referred to.

(4) By-laws made under this Act in respect of the issue of licences may, *inter alia*, provide—

(a) for the issue by the Corporation of receipts for cash paid as security for the issue of such licences; and

(b) for the circumstances in which—

(i) the cash security so paid shall be forfeited in whole or in part to the Corporation; or

(ii) the cash security so paid may be refunded in whole or in part to the person entitled thereto.

(5) By-laws made under this Act in respect of the issue of licences may, *inter alia*, provide for the issue of special licences to carry on only any such trade or business constituting such industry as shall be specified in the licence.

(6) By-laws made under this Act in respect of fees for licences may provide for the imposition of such fees at different rates in the case of licences of different classes or descriptions.

(7) Every by-law made by the Corporation, with the concurrence of the Minister of Finance, shall be published in the *Gazette* and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(8) Every by-law made by the Corporation with the concurrence of the Minister of Finance shall, as soon as convenient after its publication in the *Gazette*, be

brought before the Senate and the House of Representatives for approval. Any by-law which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

PART III

FINANCE AND ACCOUNTS

22. (1) The initial capital of the Corporation shall be fifty million rupees and such capital shall consist of grants or loans given or made available by the Government on such terms and conditions as may be determined by the Minister of Finance.

Capital of the Corporation.

(2) The amount of the initial capital of the Corporation shall be paid to the Corporation in such instalments as may be determined by the Minister of Finance.

(3) The capital of the Corporation may be increased from time to time by such amount as may be authorized by any Appropriation Act or by resolution of the House of Representatives and that amount shall be paid or made available to the Corporation by the Government by way of grant or loan on such terms and conditions as may be determined by the Minister of Finance.

(4) The capital of the Corporation contributed by the Government by way of grants shall not be reduced except in such manner as may be determined by resolution of the House of Representatives.

23. The Corporation may, with the consent of the Minister of Finance or in accordance with the terms of any general authority given by him, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms such sums as the Corporation may require for meeting the obligations of the Corporation, or exercising, discharging or performing its powers, functions or duties under this Act:

Borrowing powers of the Corporation.

Provided, however, that the aggregate of the amounts outstanding in respect of any loans raised by the Corporation under this section shall not at any time exceed such amount as may be determined by the Minister of Finance.

24. All moneys of the Corporation which are not immediately required for the purposes of the business of the Corporation may be invested by the Corporation in such manner as the Corporation may determine with the approval of the Minister of Finance.

Investment of moneys of the Corporation.

Application of
the revenue
of the
Corporation.

25. The revenue of the Corporation in any year consisting of moneys received in the exercise or the performance of its powers, duties or functions, including income from the sale of capital assets, shall be applied in defraying the following charges:—

- (a) the working and establishment expenses of the Corporation in connection with the exercise and performance of its powers, duties and functions, properly chargeable to revenue account;
- (b) allocations to cover the depreciation of the movable and immovable property of the Corporation;
- (c) the interest on any loans raised by the Corporation under the provisions of this Act;
- (d) any losses incurred in the sale of capital assets;
- (e) income tax.

Appropriation
of net surplus
revenue of the
Corporation.

26. (1) The net surplus revenue for any year, if any, out of the revenue of the Corporation after defraying the charges mentioned in section 25, may be appropriated by the Corporation for any or all of the following purposes with the approval of the Minister of Finance:—

- (a) writing off the preliminary expenses incurred in the formation of the Corporation;
- (b) writing off any accumulated losses brought forward;
- (c) writing off any unproductive expenditure not properly chargeable to revenue account;
- (d) transfers to the assets replacement reserve which the Corporation is hereby authorized to establish and maintain;
- (e) transfers to the loan redemption reserve which the Corporation is hereby authorized to establish and maintain;
- (f) transfers to the development reserve which the Corporation is hereby authorized to establish and maintain.

(2) No debits against or transfers out of the reserves mentioned in sub-section (1) shall be made by the Corporation except with the approval of the Minister of Finance.

(3) All sums remaining out of the net surplus revenue of the Corporation in any year after the appropriations mentioned in sub-section (1) have been satisfied shall be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

27. (1) The Corporation shall cause proper accounts of the income and expenditure and of all the other transactions of the Corporation to be kept, and shall prepare an annual statement of accounts and statistics relating to the business of the Corporation in such form and containing such particulars as the Minister of Finance may from time to time specify. The financial year of the Corporation shall be the period of twelve months commencing on the first day of January.

Accounts.

(2) The books and the accounts of the Corporation shall be kept at the head office of the Corporation.

28. (1) The accounts of the Corporation for each financial year shall be submitted to the Auditor-General for audit within four months of the close of the financial year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

Audit of
accounts.

(2) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Corporation, the Auditor-General shall be paid by the Corporation such remuneration as the Minister of Finance may determine. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of the Corporation shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Corporation and officers of the Corporation with such information within their knowledge as may be required for such purposes.

(4) The Auditor-General shall examine the accounts of the Corporation and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to the Senate and the House of Representatives in any examination of the activities and accounts of the Corporation.

(5) The Auditor-General shall transmit his report to the Corporation within four months of the receipt of the accounts of the Corporation.

(6) For the purposes of this section, the expression "qualified auditor" means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Ceylon, possesses a certificate to practise as an Accountant issued by the Council of that Institute; or
- (b) a firm of Chartered Accountants each of the partners of which, being a member of that Institute, possesses a certificate to practise as an Accountant issued by the Council of that Institute.

29. (1) The Corporation shall, as soon as possible after the end of each financial year of the Corporation, prepare a report on the exercise, discharge and performance by the Corporation of its powers, functions and duties during that year and on its policy and programme. Such report for any year shall set out any direction given by the Minister of Finance to the Corporation during that year.

(2) The Corporation shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister of Finance:—

- (a) the Auditor-General's report;
- (b) the balance sheet;

Report of the Corporation and copies of Auditor-General's report and statement of accounts and statistics to be sent to the Minister and laid before the Senate and the House of Representatives, and copies of such reports and statistics to be made available for purchase by the public.

- (c) the operating and profit and loss accounts;
- (d) the statement of accounts and statistics prepared under section 27; and
- (e) the report of the Corporation giving an account of the work of the Corporation.

(3) The Minister of Finance shall lay copies of the documents transmitted to him under sub-section (2) before the Senate and the House of Representatives before the end of the year next following the year to which such report and accounts relate.

(4) The Corporation shall cause copies of the report of the Corporation and of the Auditor-General's report and statement of accounts and statistics referred to in sub-section (2) to be printed at the expense of the Corporation and to be made available for purchase by the public at such price as shall be determined by the Corporation.

PART IV

GENERAL

30. (1) There shall be a fund which shall be called the Gem Reward Fund (in this Act referred to as "the reward fund").

Reward fund.

(2) The Corporation shall be responsible for the administration of the reward fund.

(3) There shall be credited to the reward fund all fines and penalties paid or recovered under this Act, the proceeds of the sale of all articles which are forfeited to Her Majesty under this Act, and all donations made to such fund.

(4) The Corporation may, from time to time, pay out of the reward fund a reward—

- (a) to any employee of the Corporation; or
- (b) to any public officer; or
- (c) to any informer,

of such sum of money as it may deem fit and necessary so to do, so however that such sum shall not, except with the prior concurrence of the Minister of Finance, exceed the sum fixed as the maximum limit of rewards by by-laws which are hereby authorized to be made for that purpose under this Act.

(5) Such amounts, out of the balance moneys remaining in the reward fund after the payments referred to in sub-section (4) have been made, as may be

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determined from time to time by the Minister of Finance, may be transferred by the Corporation from that fund to the funds of the Corporation.

(6) The accounts of the reward fund shall be audited annually by the Auditor-General.

Power of
inspection and
search.

31. Any authorized officer of the Corporation may—

- (a) enter and inspect any place in which the gem industry is being carried on under the authority of a licence issued under this Act, or in which he has reason to believe such industry is being carried on without the authority of such licence; or
- (b) stop, enter and inspect any vehicle or vessel in which he has reason to believe any gems are being transported or imported or exported in contravention of the provisions of this Act or any by-laws made thereunder;
- (c) search for gems in such place, vehicle or vessel;
- (d) examine any records maintained under this Act and take copies of such records; and
- (e) search for any books, registers, records or other documents which in his opinion will be necessary or useful for the prosecution of any person for an offence under this Act, to examine and place marks of identification on such books, registers, records or other documents and to make extracts or copies therefrom.

Power to seize
articles.

32. (1) Any authorized officer of the Corporation may, if he has reason to believe that any offence under this Act has been or is committed, seize and detain—

- (a) any article in connection with which the offence is believed to have been or to be committed or which is believed to have been or to be used in or in connection with the commission of the offence; and
- (b) any book, register, record or other document which in his opinion will be necessary or useful for the prosecution of any person for an offence under this Act.

(2) Where any authorized officer of the Corporation seizes any article under sub-section (1), such article shall be kept in the custody and control of the Corporation pending its disposal as hereinafter provided.

(3) Any person aggrieved by the seizure of any article by any authorized officer of the Corporation under sub-section (1) may, within a period of thirty days after the date of such seizure, make an application in writing against such seizure to any District Court within the local limits of whose jurisdiction such seizure was effected.

(4) Where—

(a) no application against the seizure of any article by any authorized officer of the Corporation under sub-section (1) is made to any District Court under sub-section (3) within the period specified in that sub-section, such article shall be forfeited to Her Majesty on the expiration of that period; or

(b) any application so made is dismissed by a determination of the District Court, such article shall be forfeited to Her Majesty as from the date of such determination.

33. An application which a person may make to a District Court under section 32 shall be in writing and in the form of a plaint in a civil suit. In the application such person shall be described as the plaintiff and the authorized officer of the Corporation as the defendant. The application shall contain—

Form of applications to a District Court.

(a) the name of the District Court and the date of the making of the application to the Court;

(b) the name and address of the authorized officer of the Corporation;

(c) a plain and concise statement of the matter which has to be determined by the Court, namely, that the seizure of the article, which is the subject-matter of the application, by such officer under sub-section (1) of section 32 was unlawful as there was no ground for such seizure under that sub-section, and accordingly that the Court shall determine—

(i) that such seizure was unlawful;

(ii) that such article shall be forthwith returned to the plaintiff.

Burden, of
proof.

34. In any proceedings in any District Court on any application made to it under section 32 in respect of the seizure of any article under sub-section (1) of that section, the burden of proving that such seizure under that sub-section was unlawful shall lie on the plaintiff.

Proceedings in
Court on an
application.

35. (1) The proceedings in any District Court on any application made to it under section 32 shall be subject to the procedure provided by the Civil Procedure Code for civil suits.

(2) No stamp duty shall be required for any proceedings referred to in sub-section (1).

(3) All such proceedings in any District Court as are referred to in sub-section (1) shall be taken up before any other business of that Court unless special circumstances of urgency in such other business render it impossible to do so.

(4) In making any determination allowing an application under section 32 in respect of any article a District Court shall direct the Corporation to forthwith return such article to the plaintiff, and it shall be the duty of the Corporation to comply with that direction.

(5) The determination of a District Court on any application made to it under section 32 shall be final.

Costs of
proceedings
in a District
Court on an
application.

36. (1) The District Court to which an application is made under section 32 may award to any party to the application an amount determined by that Court as the costs of the proceedings relating to that application.

(2) All such costs awarded to any authorized officer of the Corporation under sub-section (1) may be recovered in like manner as if they were costs incurred in a civil suit.

Prohibition
of the
obstruction,
&c., of
employees of the
Corporation.

37. No person shall obstruct or resist, or attempt to obstruct or resist,—

(a) any authorized officer of the Corporation in the exercise of his power of entry, inspection, search or seizure conferred on him by this Act; or

(b) any employee of the Corporation in the exercise, discharge or performance of any power, function or duty conferred or imposed on him by this Act or any by-law or regulation made thereunder.

38. (1) The Minister of Finance may make regulations for or in respect of any matter for which regulations are authorized to be made.

Regulations.

(2) Every regulation made by the Minister of Finance shall be published in the *Gazette* and shall come into operation on the date of such publication, or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister of Finance shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

39. (1) Any offence under this Act committed by any person may be compounded by the Corporation upon the payment by such person of a penalty not exceeding such amount as may be determined by the Corporation, being an amount not exceeding five times and not less than twice the maximum fine which may be imposed for that offence.

Compounding of offences.

(2) Where an offence under this Act committed by any person is compounded by the Corporation under sub-section (1), no prosecution for that offence shall be instituted or maintained against that person.

40. (1) Any person who contravenes the provisions of this Act or any by-law or regulation made thereunder shall be guilty of an offence under this Act and, if no other punishment is expressly provided by or under this Act for such offence, shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period of not less than one month or to a fine of not less than five hundred rupees, or to both such imprisonment and fine.

Offences.

(2) By-laws may be made under this Act prescribing the punishments, other than the punishments referred to in sub-section (1), which may be imposed in respect of offences under this Act committed by reason of a contravention of any of the provisions of any by-law.

Forfeiture of articles.

41. A Magistrate's Court may, on the conviction of any person for an offence under this Act, make order that any article in connection with which the offence was committed or which was used in or in connection with the commission of the offence shall be forfeited to Her Majesty.

Disposal of articles forfeited to Her Majesty.

42. Any article forfeited to Her Majesty under this Act or under any by-law or regulation made thereunder shall,—

(a) if such article is not a gem, whether uncut or cut or unmounted or mounted, be sold by the Fiscal by public auction in accordance with such directions as may be issued by the Minister of Finance; or

(b) if such article is any such gem, be delivered to the Corporation.

Power of Corporation to compound claims.

43. The Corporation may compound any claim or demand made against the Corporation by any person for such sum or other compensation as it may deem sufficient.

Liability of directors and certain officers of a body corporate for offence committed by that body.

44. Where an offence under this Act is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that that offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

Certificate by Chairman or authorized member or officer.

45. (1) In any proceedings under this Act in respect of any article purporting to be a gem of any particular class or description, a document purporting to be a certificate issued under the hand of the Chairman of the Corporation, or any other member or officer of the Corporation authorized in that behalf by such Chairman, to the effect that such article is a

gem of that class or description and that such proceedings are in respect of such article may be used as evidence in such proceedings, and shall be *prima facie* evidence of the facts stated therein until the contrary is proved.

(2) A court may presume that the signature of the document referred to in sub-section (1) is genuine and that the person signing it held the office he professed to hold at the time of signing it, and accordingly such person need not be called as a witness to prove such document.

46. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform all such contracts with the Corporation as may be necessary for the discharge of the functions, the performance of the duties, and the exercise of the powers, of the Corporation.

Power of companies, &c., to enter into contracts with the Corporation.

47. (1) No suit or prosecution shall lie—

(a) against the Corporation for any act which in good faith is done or purports to be done by the Corporation under this Act; or

(b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Corporation.

Protection for action taken under this Act or on the direction of the Corporation.

(2) Any expenses incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any court shall be paid out of the moneys of the Corporation, and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall form part of the moneys of the Corporation.

(3) Any expenses incurred by any such person as is referred to in paragraph (b) of sub-section (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purports to be done by him under this Act or on the direction of the Corporation shall be paid out of the moneys of the Corporation, unless such expenses are recovered by him in such suit or prosecution.

48. No writ against person or property shall be issued against a member of the Corporation in any action brought against the Corporation.

No writ to issue against person or property of a member of the Corporation.

The Corporation deemed to be a scheduled institution within the meaning of the Bribery Act.

Amendment of Schedule.

Interpretation.

49. The Corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

50. The Schedule to this Act may be amended, from time to time, by the Minister of Finance by Order published in the *Gazette*. Every such Order shall come into force on the date of such publication or on such later date as may be specified therein.

51. (1) In this Act, unless the context otherwise requires—

“Chairman” means the Chairman of the Corporation;

“company” has the same meaning as in the Companies Ordinance;

“gem” includes a precious stone or a semi-precious stone, and a product of any gem or any such stone;

“gem industry” means any trade or business of all or any of the following classes or descriptions:—

(a) mining for gems or gemming;

(b) importing gems into, or exporting gems from, Ceylon;

(c) selling, purchasing or supplying gems;

(d) cutting, polishing, engraving or carving gems;

(e) valuing gems;

“local authorities” means Municipal Councils, Urban Councils, Town Councils or Village Councils;

“public officer” means any person holding a paid office under the Crown in respect of the Government of Ceylon;

“scheduled written law” means the provisions of written law for the time being specified in the Schedule to this Act.

(2) For the purposes of this Act, a person shall be deemed to carry on the gem industry if he carries on all or any of the trades or businesses of the classes or descriptions which constitute that industry within the meaning of this Act.

(3) For the purposes of this Act, the expression "officer authorized by the Corporation", in relation to either or both sections 31 and 32 or any context connected therewith or incidental thereto, means any officer of the Corporation authorized by the Corporation to act under either or both such sections, as the case may be.

SCHEDULE

Provisions of Written law

Sections 2 (6), 8, 17, 18, 20, 77 (1), 78, 87, 88 and 89 of the Crown Lands Ordinance (Chapter 454).

Gemming Ordinance, No. 5 of 1890; as subsequently amended from time to time.

Sections 2, 3, 7, 8, 9, 10, 11, 12, 15, 16, 17 (2), 18, 19, 39, 41, 42 and 43 of the Mines, Quarries, and Minerals Ordinance (Chapter 210).