



**BERMUDA
1952 : 29**

BONDING OF PRECIOUS STONES ACT 1952

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[15 May 1952]

[preamble and words of enactment omitted]

Interpretation; application of Act; savings

1 (1) In this Act—

"dealer in precious stones" means any person (being an individual) or company or body of persons, whether corporate or unincorporate, engaged in trading in precious stones; and any reference in this Act to a dealer in precious stones shall be construed as including a reference—

- (i) in the case of any such person (being an individual), then to any agent or representative of that person; or
- (ii) in the case of any such company or body of persons, then to any partner, director, officer, agent

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or representative (as the case may be) of that company or body of persons;

"the Minister" means the Minister of Finance;

"precious stone" means any of the following precious stones or gems, that is to say, diamonds, sapphires, emeralds, rubies and opals; and any reference in this Act to a precious stone shall be construed as including a reference to a precious stone produced artificially or synthetically.

(2) Where it appears to the Minister that it is expedient that this Act should apply and have effect in relation to a stone or gem other than a stone or gem included in the definition of a precious stone, then in any such case it shall be lawful for the Minister by order published in the Gazette to declare that, after a date to be specified in the order, such stone or gem shall, for the purposes of this Act, be deemed to be a precious stone; and after such date as aforesaid this Act shall apply and have effect accordingly:

(3) Nothing in this Act shall be construed so as to derogate from or abridge—

(a) any provision—

(i) of any of the Revenue Acts; or

(ii) of the Customs Tariff Act 1970 [*title 14 item 12*], or of any Act replacing that Act,

except to the extent that the effect of any such provision is expressly excluded or modified by this Act; or

(b) [*omitted*] [*spent*]

(3) The affirmative resolution procedure shall apply to an order made under this section.

Permission to store precious stones in bond

2 (1) The Collector of Customs, subject to any general or special directions which may be given by the Minister in that behalf, may, on the application of any dealer in precious stones, grant to that dealer in precious stones permission to store precious stones in bond under this Act; and a dealer in precious stones to whom such permission is granted is hereinafter in this Act referred to as an approved dealer in precious stones, or as the dealer, according to the context.

(2) Where the Collector of Customs refuses the application of a dealer in precious stones to store precious stones in bond under this Act, the applicant may by notice in writing to the Financial Secretary appeal against that refusal to the Minister; and the decision of the Minister shall be final and conclusive.

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(3) Where it appears to the Collector of Customs that it is expedient for the safeguarding of the revenue that an approved dealer in precious stones should cease to be permitted to store precious stones in bond under this Act, the Collector of Customs shall report the circumstances to the Minister; and if the Minister considers it desirable in the circumstances he may by notice in writing inform the dealer that he is no longer to be an approved dealer in precious stones; and the dealer shall, without prejudice to his liability (if any) for any acts done prior to the date of such notice, cease thenceforward to be an approved dealer in precious stones for the purposes of this Act.

Precious stones in bond

3 The provisions of the Revenue Acts which relate to bonding warehouses shall have effect in relation to the storage in bond of precious stones by an approved dealer in precious stones and to the disposal of precious stones so stored subject to the following additions, alterations or modifications—

- (a) the Collector of Customs shall not grant a licence for a bonding warehouse under section 50 of the Revenue Act 1898 [*title 14 item 10*], except in respect of a strong room or vault specially constructed for the storage of valuable articles and approved by the Collector of Customs for the storage in bond of precious stones;
- (b) the dealer shall not be required, upon the entry of precious stones to be stored in a bonding warehouse, to give either of the bonds required by section 54 of the Revenue Act 1898 [*title 14 item 10*], or, upon the entry outwards of precious stones to be exported, to give the bond required by section 61 of the Revenue Act 1898 [*title 14 item 10*];
- (c) the dealer, with the written permission of the Collector of Customs, may sort, grade, pack or repack any precious stones stored by him in a bonding warehouse and for any of those purposes may remove any such precious stones from the bonding warehouse to another place (hereinafter referred to as a "sorting room") approved for that purpose by the Collector of Customs;
- (d) where under paragraph (c) precious stones have been removed from the bonding warehouse to a sorting room, then—
 - (i) any of such precious stones may be cleared from the sorting room on due entry for exportation or for other lawful disposal in accordance with the Revenue Acts, as if the sorting room were a bonding warehouse;

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- (ii) any of such precious stones as are not cleared on entry for exportation or for other lawful disposal as aforesaid shall be re-warehoused by the dealer in the bonding warehouse on the day on which they were removed therefrom; and
- (iii) those provisions of the Revenue Acts which impose forfeitures or penalties in respect of the unlawful removal of goods from a bonding warehouse or the unlawful disposal of goods removed from a bonding warehouse shall, subject to the requirements of sub-paragraph (ii), apply and have effect in respect of the removal of precious stones from the sorting room and the disposal of precious stones removed therefrom, as if the sorting room were a bonding warehouse:

Provided that as respects the manner of dealing with any contravention of any of the Revenue Acts which are applied by this subparagraph (being a contravention in respect of the removal of precious stones from a sorting room or in respect of the disposal of precious stones removed therefrom) section 8(3) shall have effect with respect to the trial and punishment of any such contravention, as though such contravention were a contravention of this Act.

Attendance of customs officers at bonded warehouse

4 (1) Any act or thing done under section 3 by an approved dealer in precious stones in relation to the removal of precious stones from a bonding warehouse to a sorting room, the sorting, grading, packing or repacking of precious stones in a sorting room, the clearance of precious stones therefrom and the re-warehousing of precious stones, shall be done in the presence and under the supervision of a customs officer and shall be subject to the observance of such conditions as the Collector of Customs may from time to time impose.

(2) In respect of the attendance of customs officers, as required under this section or under the Revenue Acts, a dealer in precious stones shall pay to the Consolidated Fund such fees as are provided for under the Customs Department Act 1952 [*title 14 item 11*].

Tax on sale of precious stones in bond

5 (1) Where any precious stones stored in bond by an approved dealer in precious stones under this Act are sold in bond for exportation the dealer shall pay into the Consolidated Fund a tax on such sale equivalent to one half of one per centum of the sale price.

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(2) For the purposes of this section "sale price", in relation to the sale of any precious stones by an approved dealer in precious stones, means the aggregate monetary value of any consideration, whether direct or indirect, which accrues to the dealer by reason of such sale.

Clearance of precious stones for exportation

6 (1) No precious stones stored in bond under this Act by an approved dealer in precious stones shall be cleared for exportation—

- (a) unless the tax imposed by section 5 has been paid by the dealer; or
- (b) unless the precious stones are consigned, with the permission of the Collector of Customs, to the dealer at the place from which they were imported into Bermuda.

(2) Notwithstanding anything in any other Act whereby any tax is imposed on any goods, articles or commodities exported from Bermuda, no such tax shall be imposed in connection with the exportation from these Islands of any precious stones which have been cleared for exportation in accordance with subsection (1) .

Collector of Customs may require information

7 An approved dealer in precious stones—

- (a) shall furnish to the Collector of Customs such certificates, statements, returns or other documents relating to his business as the Collector of Customs may from time to time require; and
- (b) shall, whenever so required by the Collector of Customs, produce for the inspection of the Collector of Customs, or of any person authorized by the Collector of Customs in that behalf, any books or records kept by him and relating to his business.

Offences

8 (1) Any approved dealer in precious stones who fails, without reasonable excuse (the proof of which shall be upon him) to comply with any requirement or direction imposed on or given to him by the Collector of Customs under section 7 commits an offence against this Act:

Punishment on summary conviction: a fine of the level 3 amount or, where such conviction is subsequent to a previous conviction for a failure to comply with the substance of that requirement or direction, a fine of the level 5 amount.

(2) If in any certificate, return, statement or other document, or in any information required under any of the foregoing provisions of this Act to be furnished to the Collector of Customs, or in any book or record required under any of the said provisions to be produced to the Collector

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of Customs, any person (being an individual), makes, or authorizes, or allows, or connives at, any statement or entry which he knows or has reasonable cause to believe to be false or misleading in a material particular, then any such person commits an offence against this Act:

Punishment on summary conviction: imprisonment for 3 months or a fine of the level 4 amount or both such imprisonment and fine.

Punishment on conviction on indictment: imprisonment for 12 months or a fine of the level 6 amount or both such imprisonment and fine.

(2A) If the person is a director, officer, agent or representative of a company then the company shall also be guilty of an offence against this Act, and shall be liable on conviction by a court of summary jurisdiction or, as the case may be, on indictment, to the like fines (but not to the imprisonment) respectively specified in subsection (1).

(3) Without prejudice to anything in subsections (1), (2) or (2A), any person who (being an individual) contravenes any of the foregoing provisions of this Act, or who authorizes, or allows or connives at, any such contravention, or who does any act preparatory to any such contravention, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 3 months or a fine of the level 4 amount or both such imprisonment and fine.

Punishment on conviction on indictment: imprisonment for 12 months or a fine of the level 7 amount or both such imprisonment and fine, or, where the contravention is in respect of particular precious stones, then to a fine not exceeding three times the value of the stones, whichever is the greater amount, or to both such fine and imprisonment.

(3A) If the person is a director, officer, agent or representative of a company then the company shall also be guilty of an offence against this Act, and shall be liable on conviction by a court of summary jurisdiction or, as the case may be, on indictment, to the like fines (but not to the imprisonment) respectively specified in subsection (3).

(3B) Without prejudice to anything in subsections (3) or (3A), the Supreme Court, upon the conviction on indictment of a person or company of an offence under subsection (3) or (3A) may, in addition to any punishment imposed or order made in connection with that conviction, order that the precious stones (if any) in respect of which the offence was committed shall be forfeited to Her Majesty.

(4) Notwithstanding anything in the foregoing provisions of this section, where a person engaged or employed in the administration of this Act omits to perform any duty imposed upon him as such the omission shall not constitute an offence against this Act.

[Section 8 subsections (1)-(3) penalty on standard scale substituted for amount in \$ by 2004:6 s.18 & Sch 2 effective 26 March 2004]

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Recovery of duty

9 Without prejudice to anything in the foregoing provisions of this Act, any tax or fee falling to be paid under this Act by or on behalf of an approved dealer in precious stones may, without limit of amount, be recovered by the Collector of Customs before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

[Amended by:

1957 : 58
1959 : 148
1969 : 666
1971 : 83
1977 : 35
2004 : 6]