



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

NATIONAL GEM AND JEWELLERY AUTHORITY ACT, No. 50 OF 1993

[Certified on 21st October, 1993]

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**National Gem and Jewellery Authority
Act, No. 50 of 1993**

[Certified on 21st October, 1993]

L. D.—O. 80/90.

AN ACT TO ESTABLISH THE NATIONAL GEM AND JEWELLERY AUTHORITY FOR THE DEVELOPMENT, REGULATION AND PROMOTION OF THE GEM INDUSTRY AND THE JEWELLERY INDUSTRY; TO PROVIDE FOR THE ESTABLISHMENT OF INSTITUTIONS TO PROMOTE SUCH DEVELOPMENT, FOR THE REPEAL OF THE STATE GEM CORPORATION ACT, NO. 13 OF 1971; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the regulation of mining for gems and the gem industry and the development of the gem industry and the jewellery industry is expedient in the public interest, by the establishment of an Authority for that purpose:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. (1) This Act may be cited as the National Gem and Jewellery Authority Act, No. 50 of 1993.

**Short title
and date of
operation.**

(2) (a) The provisions of this section, and section 55 and 56 and Part III of this Act shall come into operation on the date of enactment of this Act.

(b) The Provisions of Parts I, II and IV (other than sections 55 or 56) shall come into operation on such date (hereinafter referred to as "appointed date") as the Minister may appoint by Order published in the *Gazette*.

PART I

ESTABLISHMENT OF THE NATIONAL GEM AND JEWELLERY AUTHORITY

2. (1) There shall be established an Authority which shall be called the National Gem and Jewellery Authority (in this Act referred to as the "Authority").

**Establishment
of the
National
Gem and
Jewellery
Authority.**

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

**Constitution
of the
Authority.**

3. The administration and management of the affairs of the Authority shall be vested in a Board of Directors, (hereinafter in this Part referred to as the "Board") consisting of the Chairman and the following members,—
- (a) the Secretary to the Ministry of the Minister in charge of the subject of Finance or any senior officer of that Ministry nominated by the Minister;
 - (b) the Chairman of the Sri Lanka Export Development Board established by the Sri Lanka Export Development Act, No. 40 of 1979;
 - (c) a senior officer of the Central Bank nominated by the Monetary Board;
 - (d) the Chairman of the Gem Trading Bank;
 - (e) the Chairmen of the Institutions established under this Act;
 - (f) the Director-General of the Department of Customs or any senior officer of the Department nominated by the Minister;
 - (g) a senior officer of the Ministry of the Minister in charge of the subject of Industries nominated by the Minister;
 - (h) five other members appointed by the Minister (hereinafter referred to as "appointed members") who appear to the Minister to have wide experience, capacity and recognition in matters connected with mineralogy, geology, mining, lapidary, or the manufacture, sale and export of gems and jewellery.

**Disqualifi-
cation from
being a
member.**

4. A person shall be disqualified from being appointed or continuing as a member of the Board—
- (a) if he is or becomes a member, of Parliament or any Provincial Council or any local authority; or
 - (b) if he is not, or ceases to be, a citizen of Sri Lanka; or
 - (c) if he is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind; or
 - (d) if he is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country; or

- (e) if he holds or enjoys any right or benefit under any contract made by or on behalf of the Authority ; or
- (f) if he has any financial or other interest as is likely, to affect prejudicially the discharge by him of his functions as a member of the Board.

5. Every appointed member unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall unless he has been removed from office, be eligible for re-appointment.

Term of Office
of appointed
members.

6. (1) The Minister may by Order published in the Gazette remove any appointed member from office without assigning any reason therefor. A member in respect of whom an Order is made under this section shall be deemed to have vacated office on the date of publication of the Order in the Gazette.

Removal and
resignation
of appointed
members.

(2) In the event of the vacation of office by death, resignation or removal of any appointed member, the Minister may having regard to the provisions of section 3, appoint any other person to succeed such member. Any member so appointed shall hold office for the unexpired term of office of the member whom he succeeds.

(3) Any appointed member, may at any time resign from office by letter to that effect addressed to the Minister and sent by registered post.

(4) Where an appointed member, by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, is temporarily unable to perform his duties it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may having regard to the provisions of section 3 appoint some other person to act in his place.

7. The members of the Board may be paid such remuneration out of the Fund of the Authority as the Minister may, determine in consultation with the Minister in charge of the subject of Finance.

Remunera-
tion of
members.

8. (1) The Chairman of the Board shall be appointed by the Minister.

Chairman
of the
Board

(2) If the Chairman is, by reason of illness or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

(3) The Minister may, for reasons assigned, terminate the appointment of the Chairman.

(4) The Chairman may at any time resign from the office of Chairman by a letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

(5) Subject to the provisions of subsections (3) and (4), the term of office of the Chairman shall be three years.

(6) The Chairman shall be the Chief Executive Officer of the Authority, and shall subject to the direction and control of the Board, be charged with the administration and management of the affairs of the Authority.

**Meetings
of the
Board.**

9. (1) The Chairman of the Board shall, if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting the members present shall elect one of the members present, to preside at such meeting.

(2) The quorum for any meeting of the Board shall be seven members.

(3) The Chairman or the member presiding at any meeting of the Board, shall in addition to his own vote, have a casting vote.

(4) Subject to the provisions of this section, the Board shall regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

**Acts not
invalidated
by reason
of a
vacancy.**

10. No act, decision or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy in the Board or any defect in the appointment of any member thereof.

**The seal
of the
Authority.**

11. (1) The seal of the Authority may be determined and devised by the Board, and may be altered in such manner as may be determined by the Board.

(2) The seal of the Authority shall be in the custody of such person as the Board may decide from time to time.

(3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and one member who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments and documents to which the seal of the Authority has been affixed.

12. In the exercise of its powers and the discharge of the functions, the Authority shall comply with the general policy of the Government in relation to the gem industry and with any general or special directions issued to it by the Minister in relation to such policy.

Authority to exercise its powers under the directions of the Minister.

13. (1) The Board may delegate any of the powers and functions of the Authority to the Chairman.

Delegation of powers and functions of the Board.

(2) The Chairman to whom any of the powers and functions of the Authority have been delegated under subsection (1) shall exercise or discharge such powers and functions so delegated, subject to the special or general directions of the Board.

14. (1) The functions of the Authority shall be—

Powers and functions of the Authority.

- (a) to promote and develop the gem industry and the jewellery industry ;
- (b) to initiate and implement schemes for the promotion and development of the gem industry and the jewellery industry ;
- (c) to exploit the market for gems and jewellery whether in or outside Sri Lanka and to promote the demand for such gems and jewellery in world markets ;
- (d) to promote and sponsor technical training of personnel on every aspect relating to the gem industry and the jewellery industry and especially on heat treatment and gem cutting, with a view to developing such industries ;
- (e) to take such steps that are necessary to generate confidence in the gem industry and the jewellery industry among prospective buyers ;
- (f) to prevent unlawful gemming and the unlawful removal of gems from Sri Lanka :

(g) subject to the provisions of Article 33 of the Constitution to act as the sole authority responsible for the alienation of the right to mine for gems in or over State land, or in or over land disposed of by the State or the State Gem Corporation where the mining or gemming rights remain with the State, whether by reason of any reservation or otherwise:

Provided however, every such alienation shall be with the concurrence of the Minister in charge of the subject of Lands and of the Minister in charge of the subject of Environment, and where the land to which such rights relate is in the possession of the Mahaweli Authority, with the concurrence also of the Minister in charge of the subject of Mahaweli Development:

Provided further, that where there is disagreement amongst such Ministers as regards an alienation, the matter shall be referred to the Cabinet of Ministers, and thereafter, such alienation shall be with the concurrence of the Cabinet of Ministers;

(h) to provide technical and other advice and the infrastructural support necessary for the marketing of gems and jewellery;

(i) 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 Authority to exercise, discharge and perform its powers, functions, and duties under this Act;

(j) to establish offices for certification of gems and assaying of precious metal;

(k) to provide for the jewellery manufactured in Sri Lanka to be stamped with a hall mark in the prescribed manner, at the request of a manufacturer;

- (l) to collect statistics from persons engaged in the gem industry and the jewellery industry on any matter relating to the gem industry or the jewellery industry, and to publish such statistics in its discretion ;
- (m) to provide the necessary liaison between the gem industry, the jewellery industry and Government departments, in order to promote and co-ordinate the development of the gem industry and the jewellery industry in Sri Lanka ;
- (n) to regulate and control the terms and conditions of employment of persons who work in the gem industry and the jewellery industry, and in particular the safety measures to be taken to protect such persons from danger to life and limb.

(2) For the purpose of discharging the functions referred to in subsection (1) the Authority shall have the following powers :—

- (a) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property ;
- (b) to obtain loans on such terms and conditions as may be approved by the Minister for the purpose of discharging it's functions ;
- (c) to accept gifts grants or donations whether in cash or otherwise, and to apply them for discharging its functions ;
- (d) to appoint a Director-General of the Authority ;
- (e) to appoint such other officers and servants as may be necessary for carrying out the work of the Authority ;
- (f) to determine the remuneration payable to the officers and servants so appointed ;
- (g) to pay such remuneration out of the Fund of the Authority ;

- (h) to pay rewards in the prescribed manner to—
(i) any person ;
(ii) a public officer or an employee of the Authority,

Providing information or assisting in any raid leading to the discovery of the commission of an offence under this Act, out of the funds of the Authority ;

- (i) to establish a provident fund, a social security scheme, and provide welfare and recreational facilities, houses, hostels and other like accommodation, to persons employed by the Authority ;
(j) to enter into and perform all such contracts whether in or outside Sri Lanka as may be necessary for the exercise of the powers and discharge of the functions of the Authority ;
(k) to make rules in respect of the administration of the affairs of the Authority ; and
(l) generally to do all such other things as are necessary to facilitate the proper discharge of the functions of the Authority.

**Authority
to issue
licences.**

15. (1) Notwithstanding anything to the contrary in any other written law, the Authority shall be the sole authority responsible for the issue of licences to carry on the gem industry whether such industry is, or is proposed to be, carried on in or over any State or private land.

(2) No person shall carry on the gem industry except under the authority of a licence issued by the Authority.

(3) Every application for a licence to carry on the gem industry shall be made to the Authority in such form as may be prescribed.

(4) (a) No licence shall be issued by the Authority to any person under this Act to carry on the gem industry except upon the payment by such person to the Authority of such fee or fees as may be prescribed.

- (b) Every such licence shall—
(i) be in the prescribed Form ;
(ii) be subject to such terms and conditions as may be prescribed ;

(iii) unless it is cancelled earlier be in force for a period of twelve months from the date of its issue.

(5) Where a licence has been issued to mine for gems or gemming on any paddy land, the cultivator of such land if he is not the owner of such land or the holder of such licence, shall be paid compensation by the owner of such land assessed in such manner as may be prescribed, for loss of income from such paddy land during the period of the licence.

(6) No licence issued under this Act to any person shall be transferable to any other person, and accordingly any such transfer shall be null and void.

(7) The Authority may at any time revoke any licence issued under subsection (2), in the event of any default in the payment of any money payable thereunder or on the failure of the licensee to comply with any of the terms and conditions of the licence.

(8) Where the Authority—

(a) refuses an application for a licence made under subsection (3) ;

(b) revokes a licence under subsection (7),

the applicant or the licensee may before the expiry of a period of thirty days from the date of such refusal or revocation, as the case may be, appeal to the Secretary to the Ministry of the Minister (hereinafter referred to as the "Secretary")

(9) The Secretary may on any appeal made to him under subsection (8)—

(a) allow the appeal and direct the Authority to issue or renew the licence ; or

(b) disallow the appeal.

(10) The Authority shall comply with any direction issued to it under subsection (9),

(11) An applicant or licensee dissatisfied with a decision of the Secretary disallowing, under subsection (9), an appeal made to such Secretary under subsection (8), may appeal from such decision of the Secretary, to the Supreme

Court, within thirty days of the date on which such decision is communicated to him.

(12) The relevant provisions of the Supreme Courts Rules shall apply to an appeal preferred under subsection (11).

(13) Supreme Court may, on an appeal preferred to it under subsection (11)—

- (a) allow such appeal and direct the Authority to issue or renew the licence which is the subject of that appeal; or
- (b) disallow such appeal.

(14) Every lease granted or deemed to have been granted by the State Gem Corporation of the right to mine or gem in any State land or in any land, which has been disposed of by the Corporation with a reservation of mining rights in favour of the State shall, if such lease is in force on the day immediately preceding the appointed date be deemed for all purpose to be a lease granted by the Authority:

Provided however that the Authority may vary the terms and conditions subject to which any such lease was granted or may, in addition to the terms and conditions of such lease, add further terms and conditions thereto.

**Authority
to approve
export of
gems.**

**Registration
with the
Authority.**

16. No person shall export any gems from Sri Lanka except with the approval of the Authority.

17. (1) No person shall carry on the jewellery business in any premises unless such premises is registered with the Authority.

(2) Notwithstanding anything in subsection (1), any person who was, on the day preceding the appointed date, carrying on the jewellery industry in any premises shall register such premises with the Authority within three months of the appointed date.

(3) Every person carrying on the jewellery industry and who is desirous of obtaining any assistance from the Authority shall register such industry with the Authority.

(4) For the purposes of this section "premises" shall mean a premises where the trade or business of jewellery is carried on and for carrying on for which a tax is levied under the Municipal Councils Ordinance or the Urban Councils Ordinance.

18. (1) Subject to the provisions of subsection (2) where any person who mines for gems on State land or on any land over which any mining or gemming rights remain with the State and such person has acquired such land and such mining or gemming rights by way of an auction, the price paid at such auction by such person shall be deemed to include a royalty in lieu of any gems that may be found on such land.

Royalty to
be paid in
lieu of gems
that may
be found.

(2) Notwithstanding the provisions of subsection (1) where any person who mines for gems on State land or on any land over which the mining or gemming rights remain with the State and such person has acquired such land or such mining or gemming rights otherwise than by way of an auction, such person shall deliver to the Authority any gems obtained by him from such land.

(3) Where any gem is delivered to the Authority under subsection (2), the Authority may—

- (a) make arrangements to sell such gem to any other person or persons with the consent of the licensee; or
- (b) decline to make arrangements to sell such gem.

(4) Where any gem delivered to the Authority under subsection (2) is sold to any other person as a result of arrangements made by the Authority, the Authority shall retain as its royalty a prescribed portion of the proceeds of the sale of such gem.

(5) Where the Authority declines to make arrangements to sell any gem delivered to the Authority under subsection (2), the Authority shall return such gem to the person who delivered it to the Authority together with a document stating that the Authority has declined to make arrangements for the sale of such gem, but shall charge as royalty a prescribed portion of the market value of such gem as may be determined by the Authority.

(6) No person shall purchase from any other person any gem obtained by such other person by mining on any such land as is referred to in subsection (2), unless the Authority has declined to make arrangements for its sale.

PART II

FINANCE AND STAFF OF THE AUTHORITY

Capital of the Authority.

19. (1) The initial capital of the Authority shall be Rupees one hundred and fifty million comprising of—

- (i) all such sums of money lying to the credit of the State Gem Corporation and transferred to the Authority with effect from the appointed date ; and
- (ii) such amount as may be made available to the Authority out of the Consolidated Fund.

(2) The Capital of the Authority may be increased from time to time by such amount as may be determined by the Authority with the approval of the Minister.

Fund of the Authority.

20. (1) The Authority shall have its own fund (hereinafter referred to as the "Fund").

(2) There shall be paid into the Fund—

(a) all such sums of money that may be made available to the Authority out of the Consolidated Fund ;

(b) all such sums of money lying to the credit of the State Gem Corporation and transferred to the Authority with effect from the appointed date ;

(c) all such sums of money that may be received by the Authority in the exercise, performance and discharge of its powers, duties and functions ; and

(d) all such sums of money received by the Authority by way of donations.

(3) There shall be paid out of the Fund all such sums as are required to defray the expenses incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Act or under any other written law and all such sums as are required to be paid out of the Fund by this Act.

21. (1) The financial year of the Authority shall be the calendar year.

Financial
year and
audit of
accounts.

(2) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Authority.

22. Any sum of money belonging to the Authority may be invested by the Board in such manner as the Board may determine.

Investment
of moneys
of the
Authority.

23. (1) The Authority may with the approval in writing of the Minister, appoint a Director-General of the Authority.

Director-
General
of the
Authority.

(2) The Director-General appointed under subsection (1) shall at all times act under the direction of the Authority.

(3) The Director-General shall be paid such remuneration as may be determined by the Authority in consultation with the Minister.

24. (1) At the request of the Authority any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority, or with like consent be permanently appointed to such staff.

Appointment
of public
officers to
the staff
of the
Authority.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978 shall, *mutatis Mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract

PART III

ESTABLISHMENT OF INSTITUTIONS

**Incorporation
Orders for
establishment
of Insti-
tutions.**

25. (1) Where the Minister considers it necessary that an Institution should be established for the purpose of assisting in the development of the gem industry or the jewellery industry, the Minister may, with the approval of the Cabinet of Ministers by Order (hereinafter referred to as an "Incorporation Order") published in the *Gazette*—

- (a) declare that an Institution shall be established to perform such functions as may be specified in such Order;
- (b) assign a corporate name to the Institution;
- (c) specify the Initial Capital of the Institution and specify the amount that may be payable out of the Consolidated Fund and the amount, if any, payable by the Authority from its Fund or by any Institution established under this Part;
- (d) specify the objects of the Institution;
- (e) specify the powers of the Institution;
- (f) fix the number of members of the Board of Directors of the Institution, the number so fixed being not more than five and not less than three;
- (g) appoint the first members of the Board of Directors in accordance with the provisions of this Part;
- (h) appoint the first Chairman of the Board of Directors in accordance with the provisions of this Part;
- (i) specify the quorum for meetings of the Board of Directors.

(2) Upon the publication of an Incorporation Order under subsection (1) in the *Gazette*, an Institution (hereinafter in this Part referred to as the "Institution") with the corporate name specified in such Order and with perpetual succession shall be deemed to have been established.

(3) The Authority may, from time to time, give the Institution, general or special directions in writing as to the exercise of its powers and the performance of its duties and such directions shall be carried out by the Institution.

Board of
Directors

26. (1) The Minister shall appoint the members of the Board of Directors (hereinafter in this Part referred to as the "Board") of the Institution, of whom one member shall be the Director-General and shall nominate one of the members to be the Chairman of the Board.

(2) A member of the Board shall hold office for a period of three years unless he vacates office earlier.

(3) The Minister may, if he thinks it expedient to do so, remove any member of the Board for reasons assigned.

(4) A member may resign his office by written communication addressed to the Minister.

(5) In the event of a vacation of office by a member by death, resignation or removal from office, the Minister may appoint another person to take his place. Any person so appointed shall hold office for the unexpired part of the term of office of the member whom he succeeds.

(6) Where a member is temporarily unable to perform the duties of his office on account of ill-health, absence from Sri Lanka or for any other cause, the Minister may appoint another person to act in place of such member.

(7) The members of the Board shall be remunerated on such terms and conditions as are determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(8) If the Chairman is temporarily unable to discharge the duties of his office on account of ill-health, absence from Sri Lanka or any other cause, the Minister may appoint another member of the Board to act as Chairman.

(9) Subject to the provisions of this Act and the Incorporation Order, the Board may make rules to regulate the conduct of its meetings and the transaction of business at such meetings.

(10) A member who is interested in any contract proposed to be made by the Institution shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of such meeting and such member shall not take part in any deliberation or decision of such Board with respect to such contract.

(11) No act or decision of the Board shall be invalidated by reason only of the existence of a vacancy among its members or any defect on the appointment of any member.

**Seal
of the
Institution.**

27. (1) The Institution shall have a common seal which shall be in the custody of the Board.
- (2) The seal of the Institution may be affixed in such manner as may be determined by the Board.
- (3) The seal of the Institution shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument or document in token of their presence.
- (4) The Board shall maintain a register of the instruments or documents to which the seal of the Institution is affixed.

**Directions
of the
Minister.**

23. The Minister may in consultation with the Board from time to time, give the Board general or special directions as to the exercise of the powers and the performance of the duties of the Institution and such directions shall be carried out by the Board.

**Powers
and func-
tions
of the
Board.**

29. (1) The general supervision, direction and control of the affairs and business of the Institution shall vest in the Board.
- (2) Without prejudice to the generality of the powers conferred on the Institution by this Part of this Act, the Institution shall have the special powers specified in the Incorporation Order.
- (3) The Board shall have the power to do any thing necessary for, or conducive to, the carrying out of the objects set out in the Incorporation Order and for this purpose may—
- (a) acquire, hold, take on hire or lease, any movable or immovable property and give on hire or lease or sell or otherwise dispose of, any such property :
 Provided, however that no immovable property vested in the Institution shall be sold without the prior approval of the Minister ;
- (b) accept grants, gifts or donations, whether in cash or in kind ;
- (c) borrow money for carrying out its objects and secure the payment of any sum of money by the mortgage of any of its properties ;
- (d) appoint such officers, servants and agents as are necessary for carrying out its objects and discharging its functions ;

- (e) enter into and perform all such contracts as may be necessary for the discharge of the functions or the performance of its duties;
- (f) make rules in respect of the administration of the affairs of the Institution;
- (g) do all such other acts as are incidental to, or are consequential upon or connected with, the exercise, performance or discharge of its powers, duties and functions.

30. The Capital of the Institution shall be the sum specified in the Incorporation Order and may be increased from time to time by resolution of Parliament.

Capital
of the
Institution.

31. The liability of the Institution shall be limited to the capital of the Institution.

Liability
of the
Institution.

32. (1) The financial year of the Institution shall be the calendar year.

Financial
year and
the audit
of the
Institution.

(2) The Institution shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Institution.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Institution.

33. (1) The Board may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions of the Institution.

Appoint-
ment of
officers,
servants
and agents

(2) The officers, servants and agents appointed under subsection (1) 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 Board.

(3) At the request of the Board, any officer in the public service may with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Institution for such period as may be determined by the Board or with like consent, be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Institution, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to, and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Institution the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to, and in relation to him.

(6) Where the Institution employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Institution by that person shall be regarded as service to the government for the purpose of discharging the obligations of such contract.

State
property
both
movable
and
immovable
to be
made
available
to the
Institution.

34. (1) Where any immovable property of the State is required for the purpose of the Institution, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 9 of the Crown Lands Ordinance and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Institution.

(2) Where any movable property of the State is required for the purpose of the Institution, the Minister may, by Order published in the Gazette, transfer to, and vest in the Institution the possession and use of such movable property :

Provided, however that no order affecting any movable property of the State shall be made by the Minister under the preceding provisions of this subsection, without the concurrence of the Minister having control over such property.

Members,
Officers
and
Servants
of the
institution
deemed
to be
Public
Servants.

35. All members, officers and servants of the Institution shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

36. No writ against person or property shall be issued against any member of the Institution in any action brought against the Institution.

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

37. The Institution 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.

Institution
deemed
to be a
Scheduled
Institution
within
the
meaning
of the
Bribery
Act.

38. (1) The Minister may make regulations relating to any matter in respect of which regulations are authorized by this Part to be made.

Regulations

(2) Every regulation made under subsection (1) 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 under subsection (1) shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

PART IV

GENERAL

39. The Authority 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.

Authority to
be a
Scheduled
Institution
within
the
meaning
of the
Bribery
Act.

**Members,
Officers
and
servants
of the
Authority
deemed
to be
public
servants.**

40. All members, officers and servants of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

**State
property
both
movable
and
immovable
to be
made
available
to the
Authority.**

41. (1) Where any immovable property of the State is required for any purpose of the Authority, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property of the Authority.

(2) Where any movable property of the State is required for any purpose of the Authority, the Minister may, by Order published in the *Gazette*, transfer to, and vest in the Authority the possession and use of such movable property:

Provided, however, that no Order affecting any movable property of the State shall be made by the Minister under the preceding provisions of this subsection, without the concurrence of the Minister having control over such property.

**Acquisition
of
immovable
property
under the
Land
Acquisition
Act.**

42. (1) Where any immovable property is required to be acquired for any specific purpose of the Authority and the Minister by Order published in the *Gazette* approves of the proposed acquisition for that purpose, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and transferred to the Authority.

(2) Any sum payable, for the acquisition of any immovable property under the Land Acquisition Act for the Authority shall be paid out of the Fund of the Authority.

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

43. (1) No suit or prosecution shall lie against any member, officer, servant or agent of the Authority for any act which in good faith is done or purported to be done by him under this Act, or on the direction of the Authority.

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

(3) Any expenses incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act was done in good faith, be paid out of the Fund, to such person, unless such expense is recovered by him in such suit or prosecution.

44. No writ against person or property shall be issued against any member of the Board of Directors of the Authority in any action brought against the Authority.

No writ
against
person or
property
of a
member or
the
Authority.

45. (1) The Board of Directors of the Authority may make rules which are not inconsistent with the provisions of this Act, in respect of all or any of the matters in respect of which rules are authorized or required by this Act to be made.

Powers of
the Autho-
rity to
make
rules

(2) No rule made under subsection (1) shall have effect until it has been approved by Parliament and notification of such approval is published in the Gazette.

46. No person carrying on the gem industry or the jewellery industry shall sell or offer for sale any gem or jewellery under any representation, description or circumstances having the capacity and tendency or effect of, or deceiving or misleading a purchaser or prospective purchaser or creating an erroneous impression, on the purchaser or prospective purchaser, as regards the type, quality, quantity, size, weight or value of such gem or jewellery.

Deception

47. The Authority may, where it considers it necessary for the purpose of discharging the functions of the Authority, authorize in writing any officer to enter and search at all reasonable hours of the day any premises in which the gem industry or the jewellery industry is being carried on. An officer so authorized is hereinafter referred to as an "authorized officer".

Power of
Authority
to autho-
rize any
officer to
enter and
inspect
premises

Powers of
inspection
and search

48. Any authorized officer may—
- (a) for the purpose of ascertaining whether the provisions of this Act are complied with, enter and inspect any place in which the gem industry is being carried on under the authority of a licence issued under this Act;
 - (b) enter and inspect any place, where he has reason to believe that the gem industry is being carried on without the authority of a licence issued under this Act;
 - (c) stop, enter and inspect any vehicle or vessel, in which he has reason to believe any gem is being transported or exported, as the case may be, in contravention of the provisions of this Act or any regulation made thereunder;
 - (d) examine any books, registers or records maintained under this Act, and make extracts or copies therefrom;
 - (e) search any person on any such premises, vehicle or vessel where he has reason to believe that such person has gems secreted about his person:

Provided that no person being a female shall be searched by any person other than a female duly authorized for that purpose by the Authority;

- (f) interrogate any person in any such premises or in any such vehicle or vessel.

(2) Every person who obstructs or resists such officer in the exercise of any power conferred on him by subsection (1) shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees or to imprisonment of either description for a term not less than six months or to both such fine and imprisonment.

Power to
seize
articles.

49. (1) Any authorizing officer may, if he has reason to believe that any offence under this Act, has been or is being committed, seize and detain—

- (a) for such time as may be necessary, any article by means of or in relation to which the offence is alleged to have been committed:

(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 seizes any article under subsection (1), such article shall be kept in the custody and control of the Authority pending its disposal as hereinafter provided.

50. (1) Where after, due inquiry by an authorized officer, such officer is satisfied that any article seized was used for the commission or in connection with the commission of an offence under this Act, such article shall stand forfeited to the State.

Procedure
in respect
of arti-
cle seized

(2) Any person aggrieved by the seizure and forfeiture to the State of any article by any authorized officer under subsection (1), may within sixty days after the date of such forfeiture, make an application in writing against such seizure and forfeiture to any District Court within the local limits of whose jurisdiction such seizure and forfeiture was effected.

(3) An application to the District Court under subsection (2) 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 as the defendant. The application shall contain—

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

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

(c) a plain and concise statement of the matter which has to be determined by the court, namely, that the seizure and forfeiture of the article, which is the subject matter of the application was unlawful and that the court shall determine—

(i) that such seizure and forfeiture was unlawful ; and

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

(4) In any proceeding in any District Court on any application made to it in respect of the seizure and forfeiture of any article the burden of proving that such seizure and forfeiture under that subsection was unlawful, shall lie on the plaintiff.

(5) When an article is forfeited to the State under subsection (1) and—

- (a) no application against the seizure or such article by any authorized officer under subsection (1) is made to any District Court under subsection (2) within the period specified in that subsection ; or
- (b) any application made under that subsection is dismissed by the District Court, and no appeal against such dismissal is preferred within the time allowed therefor ;
- (c) any appeal preferred against the dismissal of an application made under that subsection is itself dismissed,

the Authority shall take possession of such article and may sell or otherwise dispose of it as it may think fit.

(6) For the purposes of this section and section 49 "an article" means—

- (a) any gem or jewellery ;
- (b) any cash ;
- (c) anything used or capable of being used in carrying on the gem industry and the jewellery industry.

Offences

51. Every person who—

- (a) contravenes the provisions of this Act or any regulation or rule made thereunder ;
- (b) being a member, officer or servant of the Authority discloses any information obtained by him in or in connection with the exercise of his powers or the performance of his duties under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act ;
- (c) makes any mark on any jewellery, with the intention of causing it to be believed that such mark is a hall mark, made by the Authority or with the approval of the Authority ;

shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act shall on conviction after trial before a Magistrate, be liable to a fine not exceeding one million rupees or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

(3) Where an offence under this Act is committed by a body of persons, then—

(a) if that body of persons is a body corporate every director or officer of that body corporate;

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided, however that a director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all such diligence to prevent the commission of such offence.

(4) Any officer or servant authorized in writing by the Authority shall be deemed to be public officers within the meaning of section 136 of the Code of Criminal Procedure Act, No. 15 of 1979, for the purpose of instituting proceedings in respect of offences under this Act.

52. The Authority may with the consent of the parties having regard to the circumstances in which any offence under this Act was committed compound such offence for a sum not exceeding one-third the maximum fine imposable for that offence. All sums received by the Authority in composition for an offence under this section, shall be credited to the Fund.

Compoun-
ding of
offences.

53. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

Regulations.

(2) Every regulation made by the Minister 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 such regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is

not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.

Repeal and savings.

54. (1). The State Gem Corporation Act, No. 13 of 1971, is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Act—

(a) all moneys lying to the credit of the State Gem Corporation on the day immediately preceding the appointed date shall stand transferred with effect from that date to the Fund of the Authority established under this Act;

(b) all property movable or immovable owned by the State Gem Corporation and used for the purposes of the Corporation on the day immediately preceding the appointed date shall vest in the Authority with effect from the appointed date;

(c) all debts and liabilities of the State Gem Corporation subsisting on the day immediately preceding the appointed date shall be deemed to be debts and liabilities of the Authority with effect from the appointed date;

(d) all contracts and agreements entered into for the purposes of the State Gem Corporation and subsisting on the day immediately preceding the appointed date shall be deemed with effect from that date to be contracts and agreements entered into by the Authority;

(e) all actions and proceedings instituted by or against the State Gem Corporation and pending on the day immediately preceding the appointed date shall be deemed with effect from that date to be actions and proceedings instituted by or against the Authority;

(f) all decrees and orders entered or made by any competent court in favour of or against the State Gem Corporation which remain unsatisfied on the day preceding the appointed date shall with effect from that date be deemed to have been entered or made in favour of or against the Authority and may be enforced accordingly;

(g) all officers and servants of the State Gem Corporation on the day immediately preceding the appointed date—

(i) who are offered employment with the Authority or in any Institution established under Part III, and accepts such offer, shall be employed therein on such terms and conditions as are not less favourable than the terms and conditions of employment that were applicable to them on the day immediately preceding the appointed date,

(ii) who are not offered employment with the Authority or in any Institution established under Part III or who are offered employment with such Authority or such Institution and who do not accept such offer, shall be entitled to the payment of such compensation as may be determined by the Minister;

(h) every rule and every by-law made under the State Gem Corporation Act, No. 13 of 1971, and in force on the day immediately preceding the appointed date and which are not inconsistent with the provisions of this Act shall be deemed to be rules and by-laws made under this Act;

(i) all licences issued or deemed to have been issued under the State Gem Corporation Act, No. 13 of 1971 and in force on the day immediately preceding the appointed date shall be deemed to be licences issued under this Act.

55. In this Act, unless the context otherwise requires—

Inter-
pretation.

“Chairman” means the Chairman of the Authority appointed under section 8;

“Director-General” means the Director-General of the Authority appointed under section 23;

“Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka constituted under section 8 of the Monetary Law Act; (Chapter 422)

“export any gems” means the carrying or taking out of Sri Lanka or causing to be carried out or taken out of Sri Lanka any gem, whether by sea or air, except gems worn on any person or carried or taken out of Sri Lanka by such person subject to the limits imposed by the Controller of Exchange;

“import any jewellery” means the importing or bringing into ‘Sri Lanka or causing to be imported or brought into Sri Lanka, any jewellery whether by sea or by air of such jewellery except jewellery worn on any person or brought into Sri Lanka by such person subject to the limits imposed by the Controller of Exchange ;

“gem” includes a precious stone or a semiprecious stone or 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 Sri Lanka,
- (c) selling, purchasing or supplying gems,
- (d) valuing gems,
- (e) cutting, polishing, engraving or carving gems,
- (f) heat treatment of gems and any other method of enhancing the value of gems,
- (g) examination and certification of gems and assaying of precious metal,
- (h) lapidary training ;

“jewellery” means may ornament made from precious metals or precious stones for personal adornment or any curio made out of such metal or such stone ;

“jewellery industry” means any trade or business relating to the assaying of precious metals or the manufacture of ornaments from precious metals or precious stones, for personal adornment, or the export of such ornaments ;

“scheduled written law” means the provisions of written law specified in the Schedule to this Act ;

“State Gem Corporation” means the State Gem Corporation established by the State Gem Corporation Act, No. 13 of 1971.

56. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

SCHEDULE

[Section 14]

PROVISIONS OF WRITTEN LAW

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

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