

ACTS

Supplement to the Sierra Leone Gazette Vol. CI. No. 48

dated 25th June, 1970

Assented to in Her Majesty's name this 24th day of June, 1970.

BANJA TEJAN-SIE,
Acting Governor-General.

LS

No. 12



Sierra Leone

1970

**The Diamond Corporations Agreement (1969)
(Ratification) Act, 1970**

Short title.

Being an Act to Ratify and Confirm an Agreement which amends and consolidates certain Agreements made for the Export and Marketing of Alluvial Diamonds.

[18th February, 1969.] Date of commencement.

WHEREAS an Agreement (hereinafter referred to as the Principal Agreement) was made on the 13th day of June, 1959, between the then Governor of Sierra Leone acting for and on behalf of the Government of Sierra Leone of the first part the Diamond Corporation Limited of the second part and the Diamond Corporation Sierra Leone Limited of the third part:

Cap 285. AND WHEREAS the Principal Agreement was ratified on the 3rd day of September, 1959 by an Act shortly entitled the Diamond Corporations Agreement (1959) (Ratification) Act:

AND WHEREAS an Agreement (hereinafter referred to as the Supplemental Agreement) was made on the 30th day of August, 1961, between the Minister of Lands, Mines and Labour acting for and on behalf of the Government of Sierra Leone of the first part, the Diamond Corporation Limited of the second part, the Diamond Corporation Sierra Leone, Limited of the third part and the Diamond Corporation West Africa, Limited of the fourth part, whereby all the rights and obligations conferred on or assumed by the Diamond Corporation Limited by virtue of the Principal Agreement (and all agreements and arrangements ancillary or giving effect thereto) were assigned and transferred to and assumed by the Diamond Corporation West Africa Limited.

Act No. 9 of 1962. AND WHEREAS the Supplemental Agreement was on the 30th day of August, 1961 ratified by an Act shortly entitled the Diamond Corporations Supplementary Agreement (1961) (Ratification) Act, 1962:

AND WHEREAS an Agreement was made on the 18th day of February, 1969 between the Minister of Lands, Mines and Labour for and on behalf of the Government of Sierra Leone of the first part the Diamond Corporation Sierra Leone Limited of the second part and the Diamond Corporation West Africa Limited of the third part whereby the Principal and Supplemental Agreements were replaced by a new Agreement which is set out in the Schedule hereto:

AND WHEREAS it is desirable that the aforesaid new Agreement should be ratified and confirmed:

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

Commen-
ment. 1. This Act shall be deemed to have come into operation on the 18th day of February, 1969.

Confirma-
tion of
Agreement. 2. The new Agreement set out in the Schedule hereto is hereby ratified and confirmed and all rights and obligations purported to be conferred or imposed thereby are hereby declared valid any law to the contrary notwithstanding, and notwithstanding anything in any law contained, the Minister of Lands, Mines and Labour, or any other person shall have power to do on behalf of the Government of Sierra Leone any act which the aforesaid new Agreement may require or allow in the name of the Minister of Lands, Mines and Labour or of the Government of Sierra Leone.

Repeal of
Cap. 285
and Act No.
9 of 1962. 3. The Diamond Corporations Agreement (1959) (Ratification) Act and the Diamond Corporations Supplementary Agreement (1961) (Ratification) Act, 1962 are hereby repealed.

THE SCHEDULE

THIS AGREEMENT is made the Eighteenth day of February One thousand nine hundred and sixty nine BETWEEN THE MINISTER OF LANDS, MINES AND LABOUR acting for and on behalf of the Government of Sierra Leone (hereinafter called "the Government") of the first part THE DIAMOND CORPORATION SIERRA LEONE LIMITED a Company incorporated in Sierra Leone having its registered office at 25/27 Westmoreland Street, Freetown Sierra Leone (hereinafter called "Dicosil") of the second part and THE DIAMOND CORPORATION WEST AFRICA LIMITED a company incorporated in England and having its Head Office at 25/27 Westmoreland Street, Free'own, Sierra Leone (hereinafter called "the Corporation") of the third part.

WHEREAS:

(i) Certain arrangements relating to the Government Diamond Office were entered into in an Agreement dated the 13th day of June 1959 between the Government of Sierra Leone of the first part, the Diamond Corporation Limited of the second part and the Diamond Corporation Sierra Leone Limited of the third part (hereinafter referred to as "the Principal Agreement");

(ii) By an Agreement made on the 30th day of August, 1961 between the parties to the principal Agreement of the first, second and third part, and the Diamond Corporation West Africa Limited of the fourth part (hereinafter referred to as "the Supplemental Agreement") all the rights and obligations conferred on or assumed by the Diamond Corporation Limited by virtue of the principal Agreement were assigned and transferred to and assumed by the Diamond Corporation West Africa Limited; and

(iii) It has been agreed by the parties to this Agreement that the said Principal and Supplemental Agreements shall be further amended and consolidated so as to read as hereinafter set forth.

NOW THEREFORE IT IS HEREBY AGREED by and between the parties here-to as follows:—

1. In this Agreement unless the context otherwise requires "Government Diamond Office" means the Government Diamond Office established under Clause 3 of this Agreement and "producer" means an Alluvial Diamond Miner and includes an Alluvial Diamond Dealer licensed under and a Native Firm as defined in the Alluvial Diamond Mining Act. "Sample Parcel" means the Sierra Leone Sample Parcel to be inspected and the prices agreed at least once a year with the advice of the Government Diamond Valuator as appointed from time to time by the Government of Sierra Leone in accordance with Clause 5 hereof.

2. The Government will introduce and use its best endeavours to cause to be passed any legislation which may be necessary to ratify this Agreement and implement the terms thereof.

3. (i) The Government shall establish a Government Diamond Office which shall function through and be controlled by an Executive Board

(ii) The Executive Board shall consist of 7 members of whom 4 shall be appointed by the Government, 2 by the Corporation, and 1 by the Sierra Leone Selection Trust. The Director of Mines, shall be one of the Government appointees, ex-officio. The Chaiman shall be appointed by the Government.

(iii) The Quorum for meetings of the Executive Board shall be three of whom one shall be a member appointed by the Corporation and two members appointed by Government, in accordance with Sub-clause (ii) of this Clause.

4. The Executive Board shall have the right *inter alia* to delegate and assign to the managers such powers privileges or functions of the Board as the Board may in its discretion deem appropriate.

5. (1) The Government shall, after *consultation with the Corporation*, appoint two independent firms of Valuers, one of whom shall be designated "The Government Diamond Valuator" and the other "The Sierra Leone Valuator".

(2) The Government Diamond Valuator shall—

(i) advise the Government Diamond Office on all matters affecting the valuation of diamonds subject to this Agreement.

(ii) revise periodically the Sample Parcel as provided for in Clause 1 and where the Executive Board and the Corporation disagree as to the price attributable to the constituents lots which make up the sample Parcel, the matter shall be referred to the Government Diamond Valuator whose decision shall be final and

(iii) the Sierra Leone Valuator (who shall preferably be a citizen of Sierra Leone) shall make separate and independent valuation of the diamonds purchased by the Government Diamond Office in order to ensure that such diamonds have been valued in accordance with the Sample Parcel. This valuation shall be done in Sierra Leone before exportation.

Both Valuers shall be paid for their services by Government.

6. The Government Diamond Office shall be the sole and exclusive Alluvial Diamond Exporter licensed in that behalf under the provisions of the Alluvial Diamond Mining Act.

7. The Government hereby appoints the Corporation to act as Managers of the Government Diamond Office and the Corporation hereby agrees to act in such capacity during the currency of this Agreement or any renewal or extension thereof upon the terms and conditions herein set out.

8. Notwithstanding clause 13 this Agreement shall continue in force until 31st December, 1970. Unless either the Government or the Corporation shall not later than the 31st December, 1969 have given to the other of them notice in writing of its intention to determine the Agreement on 31st December, 1970, the Agreement shall continue in force thereafter indefinitely until either the Government or the Corporation shall give to the other not less than 12 (twelve) calendar months' notice in writing of its intention to determine the same, such notice to expire on the 31st December in any subsequent year.

9. In pursuance of its duties as managers aforesaid the Corporation will establish an office for the Government Diamond Office at Kenema or at such other place in Sierra Leone as may be mutually agreed between the Government and the Corporation and the Corporation undertakes to engage and provide (and in so far as may be practicable recruit from citizens

of Sierra Leone) such complete and competent staff as may be necessary for the due administration and control of such office and further and in particular the Corporation will utilise and make available its technical experience and knowledge in pursuance of its management in the active and detailed training of citizens of Sierra Leone in the sorting and valuation of diamonds in all the branches and phases of this skilled function of the diamond industry.

10. All costs and expenses reasonably incurred in the establishment administration and control of the Government Diamond Office shall be borne by the Corporation.

11. (a) The Corporation warrants that it will sort and value all diamonds rendered to the Government Diamond Office for export and marketing in accordance with the agreed Sample Parcel.

(b) The prices which during the currency of this agreement will be payable to producers shall be diminished by $3\frac{1}{2}$ per cent or $2\frac{1}{2}$ per cent in accordance with sub-clause (h) of this Clause.

(c) Except as otherwise provided in this Agreement the Government warrants that the Government Diamond Office will offer to the Corporation and the Corporation will undertake during the currency of this Agreement to buy all diamonds produced in Sierra Leone delivered to the Government Diamond Office for export and marketing which diamonds shall be offered to the Corporation by the Government Diamond Office on behalf of the producers according to the assortment and prices arrived at in terms and provisions of sub-clauses (a) and (b) of this Clause and the Corporation will purchase such diamonds from the Government Diamond Office on behalf of the producers at those prices.

(d) Should the producer of any diamonds brought to the Government Diamond Office for the purpose of export and marketing which may be valued in accordance with the provisions of sub-clause (a) of this Clause at Le20,000 or more or such other amount as may be determined from time to time by the Executive Board of the Government Diamond Office not wish to accept the price offered therefor by the Government Diamond Office in accordance with the foregoing sub-clauses he may request that such diamonds shall be shipped to London to be offered for sale by tender in accordance with the provisions of Clause 11 (f) hereof.

(e) When a sale by tender is requested in accordance with the provisions of Clause 11 (d) hereof the Corporation shall arrange for such sale in London subject to any applicable reserve to the Highest bidder from among:—

- (i) any of the buyers on the accredited list of the Central Selling Organisation at the choice of the Corporation;
- (ii) The Diamond Trading Company Limited; and
- (iii) any person or persons whether or not on the above mentioned accredited list, nominated by the Government.

Any request for sale in accordance with the provisions of Clause 11 (d) hereof shall be communicated forthwith by the management of the Government Diamond Office through the Executive Board to the Ministry for the time being responsible for Mines which shall, if it considers it to be expedient

or is so requested by the producer, take without delay the appropriate steps to carry out the nomination on behalf of the Government with the advice of the Government Valuers, of such person or persons to be invited to take part in the sale as nominees of the Government.

A producer requesting sale in accordance with the provisions of Clause 11 (d) hereof may appoint by arrangement with the Executive Board a representative agreeable to both parties to be present while the parcel is offered for sale.

(f) The producer who requests a sale by tender in accordance with the provisions of Clause 11 (d) hereof may choose between the following two procedures:—

(i) that the Government Diamond Office maintain their offer as reserve price and arrange for the payment of up to 90 per cent of the price offered without interest as being an advance on the price of diamonds. In this case the producer of diamonds having once delivered the same to the Government Diamond Office shall not be entitled to withdraw or obtain re-delivery to him of the said diamonds.

(ii) that the sale shall be without a reserve price established by the Government Diamond Office and without any advance payment. In this case, the producer may declare his own reserve price and, in the event of the goods failing to reach such reserve, may recover the diamonds on paying to The Trading Company Limited a commission of 2½ per cent of the said reserve price and to the Government Diamond Office, Export Duty, Alluvial Diamond Tax and any other applicable taxes in force at the time of the request for sale by tender or the date of the producer's request for recovery.

(g) Notwithstanding the provisions of paragraph (ii) of sub-clause (f) of this clause nothing shall prevent the Government Diamond Office and the producer from entering in the case of the said paragraph (ii) into a loan agreement for the amount under the conditions and at the interest rate or rates upon which the parties should see fit to agree.

(h) There shall be deductible from the proceeds of the sale of diamonds sold in accordance with the provisions of paragraph (i) of Clause 11 (f) hereof, a commission of 3½ per cent of such sale price and from the proceeds of the sale of diamonds sold in accordance with the provisions of paragraph (ii) of Clause 11 (f) hereof a commission of 2½ per cent of such sale price, such commissions being payable in London to the company effecting the sale.

(i) The proceeds after the deduction of the appropriate commission as set out in Clause 11 (h) hereof, of all sales effected in accordance with the provisions of this Clause shall be subject to the deductions to be made by the Government Diamond Office in respect of Export Duty, Alluvial Diamond Tax or any other taxes from time to time in force relating thereto which said taxes shall be borne by the producer of diamonds so sold. Such proceeds shall be paid to the Government Diamond Office as agents for the respective sellers and the Government Diamond Office shall after making such deductions as aforesaid pay the net proceeds to the sellers concerned within one calendar month after the date of shipment from Sierra Leone.

(j) In consideration of the Government's warranty contained in Clause 11 (c) hereof and in consideration of the right hereby granted to the Corporation to export the diamonds purchased in accordance with the provisions of Clause 11 (c) hereof, the Corporation undertakes to pay to the Government during the currency of this Agreement on the 1st January in each year a fee of Le330,000.

12. Notwithstanding the provisions of Clauses 8 and 11 (c) hereof should the Corporation at any time hold unsold in its hands a stock of diamonds bought through the Government Diamond Office in terms of this Agreement of the value of Le6,000,000 (six million leones) or more the Corporation shall be entitled to approach the Government to secure such changes in this Agreement as may seem desirable in the circumstances and failing Agreement between the Government and the Corporation in regard to such changes either party shall be at liberty to determine this Agreement but not before this Agreement has been in operation for two years. The Diamond Corporation Limited shall submit to the Director of Mines a monthly return of the caratage and value of the stock of diamonds purchased through the Government Diamond Office and not yet sold to the market in London held by or on behalf of the Corporation or otherwise, computable for the purposes of this Clause.

13. Notwithstanding the provisions of Clauses 8 and 11 (c), should the Government consider this Agreement is not functioning satisfactorily then it shall be entitled to approach the Corporation to secure such changes in the Agreement as may seem desirable in the circumstances and failing Agreement between the Corporation and the Government in regard to such changes, the Government shall be at liberty to determine the Agreement but not before the Agreement has been in operation for two years at least.

14. The existing Agreements between the Government and Dicosil dated the Twentieth day of January one thousand nine hundred and fifty-six shall be cancelled by mutual consent and in lieu thereof the Government shall secure the grant to Dicosil for each year during the currency of this Agreement of such Alluvial Diamond Dealer's Licence or Alluvial Diamond Dealers' Licences without deposit or fee as may be necessary to the conduct of that Company's business.

15. The Corporation will use its best endeavours to make available to Dicosil at all times during the currency of this Agreement the benefit of the Corporation's associated companies' technical experience and knowledge in the engineering metallurgical chemical and geological fields and the benefit of their respective researches and development in mineralogy and allied sciences in order that the benefits so to be made available to Dicosil will assist Dicosil not only in its present operations but also in so far as the same may embrace the future exploration development and proper exploitation of any of the mineral resources of Sierra Leone.

16. This Agreement is to be construed and carried into effect according to the law of Sierra Leone.

17. No Officer of the Government shall be in any way personally bound or liable for the acts or obligations of the Government under this Agreement or be answerable for any default or omission in the observance or performance of any of the acts obligations matters or things herein contained.

18. If at any time during the life of this Agreement any question or dispute shall arise between the parties regarding this Agreement or any matter or thing connected therewith or the powers duties or liabilities of the parties hereunder or the amount or payment of any sum required to be paid pursuant to any provision hereof and the parties to the dispute shall be unable to resolve the same amicably then and in all such cases the matter in dispute shall be submitted to arbitration in accordance with the provisions of the Arbitration Act of Sierra Leone or any Act or law amending or replacing the same for the time being in force.

19. The Principal and Supplemental Agreement herewith before mentioned are hereby replaced by this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement as of the day and year first above written.

For and on behalf of the Government of Sierra Leone.

HON. C. A. KAMARA-TAYLOR.

Signed sealed and delivered by the said Minister of Lands, Mines and Labour in the presence of

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L. C. GREENE,
Permanent Secretary.

Duly authorized by a Resolution of the Board of Directors passed at Freetown on the eighteenth day of January, 1969, for and on behalf of The Diamond Corporation West Africa Limited.

LS

D. E. CLILVERD,
Director.

R. D. G. WALKER,
Secretary.

Duly authorized by a Resolution of the Board of Directors passed at Freetown on the seventh day of February, 1969, for and on behalf of The Diamond Corporation Sierra Leone Limited.

LS

H. E. B. JOHN,
Director.

J. H. DOHERTY,
Secretary.

Passed in the House of Representatives this *12th* day of *February*,
in the year of our Lord one thousand nine hundred and seventy.

J. W. E. DAVIES,
Clerk of the House of Representatives.

THIS PRINTED IMPRESSION has been carefully compared by me with the
Bill which has passed the House of Representatives and found by me to be
a true and correctly printed copy of the said Bill.

J. W. E. DAVIES,
Clerk of the House of Representatives.