

## **Sapphire Act, 1989**

### **16 of 1989**

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## **Sapphire Act, 1989**

### **16 of 1989**

An Act to Prohibit the unlicensed possession of sapphires and other precious stones within the territories of Jammu and Kashmir State. Whereas it is expedient to prevent theft of precious stones from mines within the State, to prohibit and punish the unlicensed possession thereof and particularly the theft of stones from the Paddar Mines, transport thereof in the State and export 1[to any

place outside the State] by persons not licensed for the purpose; It is hereby commanded as follows:- 1. Substituted by A.L.O. 2(X)8 for "in the British territory".

## **1. Short Title, Extent And Commencement :-**

- (i) The Act may be called the Sapphire Act, 1989.
- (ii) It shall extend to the whole of the Jammu and Kashmir State.
- (iii) It shall come into operation immediately.

## **2. Definitions :-**

In this Act, unless there is something repugnant to the context, the following words shall have the meanings attached to them:-

- (a) "precious stone" means corundum sapphire and ruby and includes any other stone which 1(the Government may by a notification in the Government Gazette declare] to be a precious stone for the purposes of this Act;
- (b) "sapphire or ruby" means sapphire or ruby from the Paddar mines or elsewhere within the State territories, which is in a crude condition, either as more or less complete crystals, such as appear in the pegmatite matrix, or broken fragments as are obtained from the detritus on the hill side;
- (c) "export" means the taking out of the Jammu and Kashmir State territories to any place outside such territories;
- (d) "transport" means the removal from one place to another within the territories of the Jammu and Kashmir State;
- (e) "Minister-in-charge" means a 2[Minister of the Government] for the time being in charge of the Mining and Mineral Survey Department;
- (f) "vessel" includes anything for the conveyance of property;
- (g) "Magistrate" means a Magistrate of the first or second class or any official or person specially empowered by [the Government] to try cases under this Act;
- (h) "State territory" means the territory of the Jammu and Kashmir State;
- (i) "Mineral Survey Officer" means and includes the mining officer of the Mineral Survey Department and any other officer of that Department higher in rank or any officer empowered by 3[the Government] by name or by office to carry out all or any of the purposes of this Act;
- (j) "Police Officer" means and includes all officers of the Police Department of and above the rank of a constable;

(k) "Customs and Excise Officer" means and includes every officer of the Department of and above the rank of a jamadar;  
(l) "Revenue Officer" means any officer of the Revenue Department of and above the rank of a lambardar;  
(m) "Forest Officer" means and includes every officer of that Department of and above the rank of a forest guard;  
(n) "sapphire offence" means any offence punishable under this Act.

1. Substituted by Act X of 1996 for the words "may by command of His Highness the Maharaja Bahadur and by notification in the Jammu and Kashmir Government Gazette be declared".
2. Substituted by Act X of 2010 for "Minister of His Highness Government".
3. In Sections 2, 8 and 19 the words "the Government" substituted for the words "His Highness the Maharaja Bahadur" by Act X of 1996.

### **3. Precious Stones To Be The Property Of The State :-**

All sapphires and rubies and all precious stones as defined above found any where within the State territory after three months from the date of the promulgation of this Act shall be deemed to be the property of the State, unless title thereof is vested in any person in accordance with the rules made under this Act.

### **4. Prohibition As To Keeping Or Retaining In Possession Buying Or Selling Sapphire Or Ruby Within The State After Three Months From Promulgation Of This Act :-**

Except as permitted by the Minister-in-charge or under any rules promulgated under this Act, no one shall have, keep or retain in his possession or custody any sapphire or ruby within the State territory after three months from the promulgation of this Act, or buy or sell or be otherwise a party to the transfer of any sapphire or ruby or a precious stone as defined above or transport it or dig, cut or dress it.

### **5. Penalty :-**

Whoever does any of the acts prohibited by section 4 above shall on conviction by a 1[Judicial Magistrate] be punishable with imprisonment of either description which may extend to two years or fine which may extend to Rs. 5,000, or both.

1. Substituted by Act XL of 1966 for "Magistrate".

## **6. Offences Cognizable And Non-Bailable :-**

All offences under this Act shall be cognizable and non-bailable.

## **7. Officers Authorised To Prevent Commission Of Offences :-**

Every Mineral Survey Officer, Forest Officer, Police Officer, Customs and Excise Officer and Revenue Officer shall prevent, and may interfere for the purpose of preventing, the commission of any sapphire offence under this Act.

## **8. Officers Authorised To Seize Sapphire Or Ruby Or Detain, Search Or Arrest Suspected Person When Offence Committed :-**

When there is reason to believe that an offence under this Act has been committed, any Mineral Survey Officer or any Forest Officer above the rank of Ranger, or any Police Officer not below the rank of Sub-Inspector or any Officer of the Revenue Department not below the rank of Naib-Tehsildar, or any other officer specially authorised by 1[the Government] in this behalf may without an order from a Magistrate and without a warrant-

(a) seize any sapphire or ruby, with respect to which offence under this Act is alleged to have been committed, together with all weapons, materials, tools, boats, carts and cattle believed or alleged to have been used in committing such offence;

(b) detain, search or arrest any person against whom a reasonable suspicion exists of his being concerned in any offence under this Act:

Provided that every officer making any arrest under this section shall, without any unnecessary delay, take or send the person arrested to the nearest Magistrate 2[x x x x] or to the officer in charge of the nearest police station;

(c) detain and search in any open place any cart, car, pack-animal or other conveyance which he has reason to believe to be used for carrying sapphire or ruby in respect of which an offence under this Act has been committed; and

(d) under a warrant issued by a Magistrate to him by name or by virtue of his office enter and search any building, vessel or place in which he has reason to believe sapphire or ruby to be unlawfully kept or concealed and, in case of resistance, to break open any

door or remove any obstacle to such entry.

1. See footnote under Section 2.

2. Words "having jurisdiction in the case" omitted by Act XL of 1966.

### **9. Application Of Code Of Criminal Procedure :-**

All warrants issued and all searches made under section 8 shall be executed or made in accordance with the provisions of the Code of Criminal Procedure in force with in the State.

### **10. Report To Magistrate Of Seizure Of Property :-**

Every officer seizing any property shall, without any unnecessary delay, make a report of such seizure to the Magistrate; provided that when the offender is unknown it shall be sufficient for the officer to make, as soon as possible, a report of the circumstances of such seizure to his immediate superior officer.

### **11. Duty Of Magistrate :-**

Upon the receipt of any such report, the Magistrate shall, with all convenient speed, take such measures as may be necessary for the arrest or detention and trial of the offender and the disposal of the property according to law.

### **12. Confiscation Of Seized Sapphires, Rubies, Weapons Materials, Tools, Etc :-**

All sapphires or rubies in respect of which an offence under this Act has been committed and all weapons, materials, tools, vessels and cattle used in committing it shall be liable to confiscation and, on the conclusion of the trial or, in case of the offender being not known, without any trial shall be made over by the 1[Judicial Magistrate] to the Minister-in-charge or any officer appointed by him in writing by a particular or general order. Such confiscation shall be in addition to any other punishment prescribed for such an offence.

1. Substituted by Act XL of 1906 for "Magistrate".

### **13. Penalty For Vexatious Or Unreasonable Seizure, Detention, Etc :-**

Any officer who vexatiously and without reasonable cause seizes

any property, detains or searches any person, animal or conveyance or enters or searches any building, vessel or place without any belief that an offence under this Act has been committed, shall be punished with imprisonment of either description which may extend to six months or with fine which may extend to Rs. 500, or with both.

**14. Person In Possession Of Sapphire Or Ruby Within The State The Commencement Of This Act To Make Over Such Sapphire Or Ruby To An Authorised Officer, Entitled To 30 Percent Of The Value :-**

Notwithstanding anything stated in this Act, any person who has in his possession or custody any sapphires or rubies within the State territories at the commencement of this Act may make over such sapphires or rubies to the officer duly authorised for such purpose by the Minister-in-charge within three months of the promulgation of this Act and shall be entitled to receive 30 per cent of the value of such sapphires or rubies unless he can prove a valid title thereto to the satisfaction of the officer appointed by the Minister-in-charge in this behalf, in which case he will be entitled to receive full value of such sapphire or ruby.

No person complying with the provisions of this section shall be liable to prosecution under section 5 and no enquiry shall be made from him as to the source from which he obtained such sapphire or ruby, unless he volunteers to give this information in order to prove valid title to such sapphires or ruby.

**15. Value To Be Determined By Minister-In-Charge :-**

The value of the sapphires or ruby produced under section 14 by any person shall be determined by the Minister-in-charge and his assessment shall be final.

**16. Sapphire Or Ruby To Be Deemed Illicit If Not Produced As Required By Section 14 :-**

Any sapphire or ruby not produced as required by the provisions of section 14 within three months of the promulgation of this Act shall be deemed to be illicit.

**17. Reward To Informer :-**

Any person who is not State official and gives information which

leads to the seizure of sapphires or rubies as defined in this Act, shall be entitled to a reward not exceeding 30 per cent, of the seized sapphire or ruby as the Minister-in-charge may determine.

**18. Report Of Mineral Survey Officer To Be Used As Evidence :-**

Any document purporting to be a report under the hand of any Mineral Survey Officer of the State upon any sapphire or ruby duly submitted to him for examination and report in the course of any proceedings under this Act, may be used as evidence in any enquiry, trial or other proceedings under this Act.

**19. Application Of The Provisions Of This Act To Any Other Mineral :-**

1[The Government] may, by a notification printed in the Jammu and Kashmir Government Gazette, apply the provisions of this Act to any mineral other than sapphire or ruby.

1. See footnote under section 2.

**20. Rule Making Power :-**

The Minister-in-charge may make rules consistent with the provisions of this Act for the carrying out of the objects of this Act.