

CHAPTER 209.

DIAMOND SUPPLEMENTARY AGREEMENT 1954
(RATIFICATION).

An Ordinance to Ratify and Confirm an Agreement supplementary to certain Agreements made for and on behalf of the Government of Sierra Leone of the one Part and by the Sierra Leone Selection Trust, Limited, of the other Part. ^{2 of 1954.}

[29TH APRIL, 1954.]

WHEREAS a Deed was made on the twentieth day of October, 1934, between Thomas Nelson Goddard, then Acting Governor of the Colony and Protectorate of Sierra Leone acting for and on behalf of the Government of Sierra Leone (hereinafter referred to as "the Government") of the one part and the Sierra Leone Selection Trust, Limited (hereinafter referred to as "the Company") of the other part, whereby the Governor granted to the Company for the term of ninety-nine years from the 1st day of July, 1933 (determinable as therein provided) a sole and exclusive licence to explore for, exploit, produce, take, dispose of and market diamond throughout Sierra Leone except as therein mentioned (which Deed is hereinafter referred to as "the Licence"):

AND WHEREAS an Agreement (hereinafter referred to as "the Supplementary Agreement of 1935") was made on the fifteenth day of April, 1935, between the Crown Agents for the Colonies (hereinafter referred to as "the Crown Agents") for and on behalf of the Government of the first part, Consolidated African Selection Trust, Limited, of the second part, and the Company of the third part, which Agreement was supplemental to the Licence:

AND WHEREAS both the Licence and the Supplementary Agreement of 1935 were ratified by an Ordinance shortly entitled The Diamond Agreements and the Licence (Ratification) Ordinance:

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AND WHEREAS by Clause 4 of the Licence (as amended) the Government agreed with the Company that the Company should at all times during the continuance of the Licence be exempt in respect of their operations in connection with the production and disposal of diamond from (*inter alia*) all taxes in respect of profits which might otherwise be imposed upon or become

payable by the Company other than such tax as the Government might impose on profits of the diamond industry not exceeding twenty-seven-and-a-half *per centum* of the net profit of the Company ascertained as therein mentioned:

Now
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AND WHEREAS by virtue of an arrangement made between the Government and His Majesty's Government in the United Kingdom under the Income Tax Ordinance, as amended (in particular) by the Income Tax (Amendment) Ordinance, 1947, relief from double taxation was afforded in respect of income tax in Sierra Leone and income tax in the United Kingdom, so that, if certain further amendments were made to the Licence (as amended), the Company could be made liable to income tax in Sierra Leone without increasing its total liability to taxation both in Sierra Leone and the United Kingdom:

AND WHEREAS an Agreement (hereinafter referred to as "the Supplementary Agreement of 1951") was made on the eighteenth day of October, 1951, between the Crown Agents for and on behalf of the Government of the one part and the Company of the other part, whereby the Company agreed to the variation of the Licence (as amended) so as to become liable to pay income tax in Sierra Leone, subject to certain conditions:

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AND WHEREAS the Supplementary Agreement of 1951 was ratified by an Ordinance shortly entitled The Diamond Supplementary Agreement (1951) Ratification Ordinance, 1952:

AND WHEREAS the Company agreed to the further amendment of the Licence (as modified as aforesaid) so that firstly the Company shall be liable to both Sierra Leone income tax at the standard rate from time to time in force and the Diamond Industry Profit Tax calculated on a graduated scale, and secondly the Company shall make an annual contribution for the benefit of the people of the Kono Country and especially the local population in the neighbourhood of the Company's mining areas:

AND WHEREAS the amendments aforesaid are contained in an Agreement made on the 16th day of March, 1954, between the Crown Agents for and on behalf of the Government of the one part and the Company of the other part, which Agreement is set out in the Schedule hereto:

NOW, THEREFORE, BE IT ENACTED by the Governor of Sierra Leone, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Diamond Supplementary Agreement (1954) Ratification Ordinance, 1954. Short title.

2. The Agreement set out in the Schedule hereto in so far as it amends, varies or otherwise affects the Licence as amended by the Supplementary Agreements of 1935 and 1951 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 Governor or the Crown Agents shall have power to do on behalf of the Crown any act which the Agreement may require or allow in the name of the Government. Confirmation
of Supple-
mentary
Agreement.

THE SCHEDULE.

AN AGREEMENT made the 16th day of March, 1954, BETWEEN THE CROWN AGENTS FOR THE COLONIES whose office is at No. 4 Millbank in the City of Westminster acting for and on behalf of the Government of the Colony and Protectorate of Sierra Leone (hereinafter called "the Government") of the one part and SIERRA LEONE SELECTION TRUST, LIMITED, whose registered office is situate at Selection Trust Building, Mason's Avenue, Coleman Street in the City of London (hereinafter called "the Company") of the other part.

WHEREAS:

(A) This Agreement is supplemental to—

(i) A Deed dated the 20th day of October, 1934 (hereinafter called "the Licence") and made between Thomas Nelson Goddard, M.B.E. the then Acting Governor of the Colony and Protectorate of Sierra Leone aforesaid acting on behalf of the Government of the one part and the Company of the other part whereby the said Acting Governor acting as aforesaid granted to the Company for the term of ninety-nine years from the 1st day of July 1933 (determinable as therein provided) a sole and exclusive Licence to explore for, exploit, produce, take, dispose of and market diamond throughout the whole of the Colony and Protectorate of Sierra Leone (hereinafter called "the Colony") except as therein mentioned.

(ii) An Agreement dated the 15th day of April, 1935 (hereinafter called "the Supplemental Agreement") and made between the said Crown Agents for the Colonies acting for and on behalf of Henry Monck-Mason Moore, C.M.G., the then Governor of the Colony of the first part Consolidated African Selection Trust Limited of the second part and the Company of the third part modifying (*inter alia*) the provisions of the Licence to the extent therein mentioned but which modifications are not material for the purposes of this Agreement and

(iii) An Agreement dated the 18th day of October, 1951 (hereinafter called "the 1951 Agreement") and made between the said Crown Agents for the Colonies acting for and on behalf of the Government of the one Cap. 208.

part and the Company of the other part modifying the provisions of the Licence relating to the taxation of the Company.

(B) It has been agreed that the provisions of the Licence as modified as aforesaid shall be amended so that the Company shall be liable to both Sierra Leone income tax at the standard rate from time to time in force and the Diamond Industry Profit Tax calculated on a graduated scale.

(C) It has also been agreed that the Company shall make an annual contribution for the benefit of the people of the Kono Country and especially the local population in the neighbourhood of the Company's mining areas.

NOW IT IS HEREBY AGREED as follows—

Definitions.

1. FOR the purposes of this Agreement the following definitions shall unless the context otherwise requires apply—

“Capital Expenditure” shall mean expenditure which is eligible for capital allowances under United Kingdom tax law from time to time in force.

“Accounting Year” shall mean unless and until otherwise agreed the period commencing on the first day of July in every year and ending on the thirtieth day of June in the next succeeding year.

“Licence Reserve” shall mean the General Reserve referred to in Clause 9 of the Licence.

“Profit” shall mean the net Profit of the Company for an accounting year calculated in accordance with the provisions contained in the Schedule to the Licence as modified by the provisions of this Agreement.

**Modifications
to the
Licence.**

2. NOTWITHSTANDING anything contained in the Licence the following provisions shall have effect—

(a) In respect of the accounting year commencing on the 1st day of July, 1953 and each subsequent accounting year the yearly rent or sum payable by the Company pursuant to Clause 3 (1) of the Licence shall be £10,000 instead of £7,000 and the said Clause 3 (1) and Clause 3 (2) and the Schedule to the Licence shall be deemed to have been amended with effect from the 1st day of July, 1953 by the deletion therefrom of “£7,000” and the insertion in place thereof of “£10,000”.

(b) In respect of profit for the accounting year commencing the 1st day of July, 1951 and every subsequent accounting year the Diamond Industry Profit Tax shall be payable by the Company in accordance with the graduated scale set out in the Schedule to this Agreement.

(c) In computing profits in respect of any accounting year for the purposes of paragraph (a) of the Schedule to the Licence—

(i) The Company may at its discretion deduct all or any part of the capital expenditure incurred by it during such year provided that the amount deducted in any year shall not exceed Two Hundred Thousand Pounds and shall not include any capital expenditure which has been defrayed out of the Licence Reserve and

(ii) No deduction may be made for any depreciation in respect of capital expenditure which has been either deducted under the provisions of sub-clause (i) of this clause or defrayed out of the Licence Reserve.

(iii) In the event of the sale by the Company of any assets the cost of which has been allowed as a charge against profits under sub-clause (i) of this clause so much of the proceeds of such sale as do not exceed the amount which has been so allowed as a deduction shall be included in computing the profits of the Company for the year in which the sale is made.

(d) The Company shall be entitled if it so desires to increase the Licence Reserve to such sum not exceeding £600,000 at any one time as it may think fit by means of annual transfers from profit provided that the amount transferred in respect of any accounting year shall not exceed seven and one-half per centum of the profits of the Company for such year ascertained in accordance with paragraph (a) of the Schedule to the Licence as amended by the provisions of this Agreement, and the obligations on the Company under Clause 9 (1) of the Licence shall cease to have effect. Any such transfer shall be allowed as a deduction in computing the profit for the purposes of the Diamond Industry Profit Tax instead of the deductions allowed under paragraph (b) (i) of the Schedule to the Licence as amended by the provisions of this Agreement. The right hereby given to the Company may be exercised in respect of any accounting year at any time and from time to time not later than twelve months after the date on which the payment of Diamond Industry Profit Tax for that accounting year became due and any necessary adjustment of liability to taxation consequent upon such an exercise shall be made accordingly.

(e) The Licence Reserve may be invested either in such investments as are described in Clause 9 (4) of the Licence or in other investments of such nature as may from time to time be agreed between the Government and the Company.

(f) Notwithstanding that it may be available for such purpose the Company shall not apply any part of the Licence Reserve in the equalisation of dividends.

3. NOTWITHSTANDING anything contained in the Licence or the 1951 Agreement but subject to the provisions of Clause 4 hereof the Company shall be liable to pay Sierra Leone income tax at the standard rate from time to time in force and in computing the profits of the Company for any accounting year for the purposes of Sierra Leone income tax the following provisions shall have effect that is to say—

The Company to pay Sierra Leone Income Tax.

(a) The Diamond Industry Profit Tax chargeable on profit for that year shall be allowed as a deduction.

(b) The Company shall be entitled if it so desires to deduct all or any part of capital expenditure incurred during that year to up a total of £200,000.

(c) Capital expenditure deducted under sub-paragraph (b) above shall not be the subject of any capital allowances and

(d) Any capital expenditure not deducted under sub-paragraph (b) above shall be the subject of capital allowances (namely initial allowances annual allowances and balancing allowances or balancing charges) at the rates and on the basis applicable and from time to time in force in relation to such capital expenditure under United Kingdom income tax law.

(e) In the event of the sale by the Company of any assets the cost of which has been allowed as a charge against profits under sub-clause (b)

of this clause, so much of the proceeds of such sales as do not exceed the amount which has been allowed as a deduction shall be included in computing profits of the Company for the year in which the sale is made.

Overriding
Limit of
Taxation.

4. The aggregate amount payable by the Company in respect of Sierra Leone income tax and the Diamond Industry Profit Tax calculated by reference to the profits of any accounting year shall not exceed sixty *per centum* of the Company's profits for that year. Such profits shall be calculated as for Sierra Leone income tax purposes provided that the deductions to be made in respect of capital allowances (namely initial allowances, annual allowances and balancing allowances or balancing charges) shall be at the rates and on the basis used in the computation of the Company's assessment to income tax in the United Kingdom on the profits for that accounting year but without deducting the Diamond Industry Profit Tax chargeable thereon or the amount to be deducted for capital expenditure under Clause 3 (b) above. Any reduction in the aggregate amount of tax required to give effect to this clause shall be effected primarily by a reduction of Sierra Leone income tax.

Income Tax
not to be
discrimina-
tory.

5. THE provisions of Sierra Leone income tax law shall not discriminate against the Company as compared with other taxpayers who are subject to Sierra Leone income tax.

Suspension of
the 1951
Agreement.

6. So long as the preceding provisions of this Agreement are in force the 1951 Agreement shall be suspended and shall have no effect.

Effective date
of New Tax
arrange-
ments.

7. THE provisions of Clauses 1 to 6 above (with the exception of Clause 2 (a)), shall be deemed to have come into effect in respect of the accounting year commencing the 1st day of July, 1951 and all subsequent accounting years.

Double
Taxation
Relief.

8. THE foregoing provisions of this Agreement shall remain in force for so long and so long only as the amounts of both the Diamond Industry Profit Tax and Sierra Leone income tax payable by the Company rank for double taxation relief against the Company's liability to United Kingdom taxes.

Kono Area
contribution.

9. THE Company will in the accounting year beginning on the 1st day of July, 1953 and each subsequent accounting year pay to such appropriate local Kono Authorities as shall be agreed between the Government and the Company a sum of £10,000 by way of a contribution to the budget of those Authorities and such payments shall be utilised solely for the development of the Kono Country and for the benefit of the Kono people having special regard to the local population in the neighbourhood of the Company's mining areas.

Illicit
Diamond
Mining and
Trading and
Diamond
Stealing.

10. THE Government shall take all reasonable steps to prevent and eliminate illicit diamond mining and trading and diamond stealing throughout the Colony and to facilitate the apprehension of persons suspected of being engaged in illicit diamond mining and trading and diamond stealing the Government will forthwith introduce and use its best endeavours to cause to be passed legislation to amend the existing law in the Colony to such an extent as may be necessary to give full effect to this provision.

Diamond
recovery.

11. NOTWITHSTANDING the provisions of Clause 18 of the Licence (which provides for all diamond recovered by the Government to be delivered to the Company free of charge) the Company shall contribute towards expenses

incurred by the Government for the protection of the industry and recovery of the diamond. Such contribution shall be at the rate of fifteen *per centum* of the proceeds received on the sale by the Company of the diamond concerned as certified by the Company's auditors. In the event of any such diamond not being sold during the accounting year in which it is delivered to the Company a provisional payment shall be made by the Company to the Government of fifteen *per centum* of the value placed on the diamond under the Company's sales arrangements and this payment shall be adjusted up or down when the diamond is sold.

12. (1) For the purpose of giving full effect to the terms of this Agreement the Government will forthwith introduce and use its best endeavours to cause to be passed Legislation for the purpose of ratifying and confirming this Agreement and implementing all the terms hereof.

Government to introduce Legislation to give full effect to this Agreement.

(2) If such Legislation including the Legislation referred to in Clause 10 hereof shall not be duly passed and become law within twelve months from the date hereof or within such extended time as the Government and the Company may in writing agree this Agreement shall be void *ab initio* and of no effect.

13. THE Licence shall henceforth be read and construed as modified by—

Licence to remain in force.

- (a) the Supplemental Agreement,
- (b) subject to Clause 6 hereof of the 1951 Agreement, and
- (c) these presents,

and subject thereto shall remain in full force and effect.

14. THE Crown Agents for the Colonies enter into this Agreement in their official capacity and as Agents for the purpose of binding the Government and no person on behalf of the Crown Agents for the Colonies nor any officer or member of the Government shall personally be in any way liable for or in respect of any matter or thing hereby made obligatory on the Crown Agents for the Colonies or the Government.

Capacity of Crown Agents.

15. THE marginal notes are intended for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

Marginal Notes.

IN WITNESS whereof Sir George Frederick Seel, K.C.M.G., one of the Crown Agents for the Colonies has hereunto set his hand and seal and the Company has caused its Common Seal to be hereunto affixed the day and year first above written.

THE SCHEDULE.

SCALE OF THE DIAMOND INDUSTRY PROFIT TAX.

The rate of the Diamond Industry Profit Tax payable is as follows—

<i>Segments of Profit.</i>	<i>Rate of the Diamond Industry Profit Tax.*</i>
	%
On the 1st £250,000 of profit	Nil
On the next £250,000 of profit	5
On the next £250,000 of profit	20
On the next £250,000 of profit	25
On the next £250,000 of profit	37·5
On all profits in excess of £1,250,000	50

* Subject to the overriding provisions of Clause 4.

SIGNED SEALED AND DELIVERED }
 by the said SIR GEORGE FREDERICK } G. F. SEEL.
 SEEL, K.C.M.G., one of the Crown Agents for }
 the Colonies in the presence of— }



H. R. TWYMAN,
Civil Servant,
 4, Millbank, Westminster,
 S.W.1.

THE COMMON SEAL of }
 Sierra Leone Selection Trust }
 Limited was hereunto affixed }
 in the presence of— }

Common
 Seal of the
 Sierra Leone
 Selection
 Trust
 Limited.

A. CHESTER BEATTY, *Director.*
 R. ANGAS, *Secretary.*
