

THE JEWELLERY BILL

(No. XII of 2007)

Explanatory Memorandum

The object of this Bill is to amend, consolidate and streamline the law relating to jewellery. The Bill, in particular, makes better provisions for the regulation and control of manufacture, sale, importation and display of jewellery made of precious metals and of their alloys generally, instead of gold and its alloy as at present, and for the verification and grading of precious and semi-precious stones.

The Bill also incorporates the requirements of the Convention on the Control and Marking of Precious Metals, commonly referred to as the Hallmarking Convention, by providing for the Assay mark and Common Control mark on articles of gold, silver and platinum.

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Minister of Industry, Small & Medium Enterprises,
Commerce & Cooperatives

25- May-2007

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A BILL

To amend, consolidate and streamline the law relating to jewellery

ENACTED by the Parliament of Mauritius, as follows -

PART I – PRELIMINARY

1. Short Title

This Act may be cited as the Jewellery Act 2007.

2. Interpretation

In this Act -

“Assay mark” means the mark referred to in section 13;

“business premises” -

- (a) means the place of business or manufacture of a dealer; and
- (b) includes a place where -
 - (i) jewellery is made, stored, displayed, offered for sale, or sold;
 - (ii) precious and semi-precious stones are processed, stored, displayed, kept for sale or sold;

“Chairperson” means the person appointed under section 5(2);

“Common Control mark” means the mark referred to in section 13;

“Controller” means the Controller of Assay referred to in section 4;

“Council” means the Jewellery Advisory Council referred to in section 5;

“dealer” means a person who deals in jewellery, precious or semi-precious stones, and includes a person who -

- (a) manufactures, sells, imports jewellery;
- (b) supplies jewellery for sale; or
- (c) imports ,sells, processes precious or semi- precious stones;

“document” includes -

- (a) any writing;
- (b) information recorded or stored by means of a tape-recorder, computer or other device, and any material derived from information so recorded or stored;
- (c) a book, graph or drawing; and
- (d) a photograph, film, negative, tape or other medium or device in which one or more visual images are embodied so as to be capable of being reproduced, with or without the aid of an equipment;

“fineness”, in relation to jewellery, means the number of parts by mass of a precious metal in one thousand parts by mass of its alloy;

“fineness mark” means a mark referred to in section 8;

“identification mark” means the manufacturer’s mark referred to in section 12;

“importer’s mark” means the mark referred to in section 11;

“jewellery” means any article for personal adornment made of a precious metal or of its alloy, and which exceeds one gram;

“mark” means -

- (a) the Assay mark;
- (b) the Common Control mark;
- (c) a fineness mark;
- (d) an identification mark;
- (e) a sponsor’s mark;
- (f) the State mark; or
- (g) an importer’s mark;

“member” means a member of the Council and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of industry is assigned;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of industry;

“precious metal” means gold ,silver or platinum;

“precious stone” means diamond or such other substance as may be prescribed;

“punch” includes any instrument used to mark jewellery;

“semi-precious stone” means such substance as may be prescribed.

“sponsor’s mark” means the mark referred to in section 10;

“State mark” means the mark described in section 9.

3. Application of Act

(1) This Act shall not apply to any jewellery which is manufactured, or to precious or semi-precious stones which are processed, in Mauritius, and which are meant exclusively for export.

(2) Notwithstanding subsection (1), the Controller may at the request of an exporter, mark jewellery meant exclusively for export with the Assay mark and Common Control mark.

PART II – ADMINISTRATION

4. Controller of Assay

(1) There shall be a Controller of Assay whose office shall be a public office.

(2) The Controller shall –

(a) be responsible for-

(i) the assaying and marking of jewellery; and

(ii) the verification and grading of precious and semi-precious stones;

(b) carry out the duties and functions assigned to him under this Act.

(3) In the exercise of his duties, the Controller shall be assisted by such public officers as may be required.

(4) Anything authorised or required to be done by the Controller may be done by any public officer who has been so authorised by the Controller.

5. The Council

(1) There shall, for the purposes of this Act, be a Jewellery Advisory Council which shall consist of 9 members.

(2) The members of the Council shall be -

(a) a Chairperson appointed by the Minister;

(b) a representative of the Ministry responsible for the subject of industry;

(c) the Controller of Assay;

- (d) a representative of the Mauritius Chamber of Commerce and Industry;
- (e) a representative of Enterprise Mauritius;
- (f) a representative of the Industrial and Vocational Training Board;
- (g) 2 representatives of the jewellery sector, appointed by the Minister; and
- (h) a representative of consumer organisations, appointed by the Minister.

(3) Every member, other than an ex-officio member, shall hold office on such terms and conditions as the Minister may determine.

6. Functions of the Council

The Council shall advise the Minister on all matters relating to the jewellery industry and the processing of precious and semi-precious stones, including the -

- (a) promotion of the industry;
- (b) protection of consumers' interests;
- (c) assaying and marking of jewellery;
- (d) verification and grading of precious and semi-precious stones; and
- (e) import, export, manufacture and sale of jewellery.

7. Meetings of the Council

- (1) The Council shall -
 - (a) meet at least once every 3 months; and
 - (b) subject to this section, regulate its own proceedings.
- (2) Five members shall constitute a quorum.

(3) No member shall take part in the deliberations of the Council where he has an interest in any matter under consideration.

PART III – MARKING OF JEWELLERY

8. Fineness mark

A fineness mark shall -

- (a) in the case of jewellery made of gold, be of the category and standard of fineness specified in the first and second columns of Part I of the First Schedule, and comprise the corresponding figure specified in the third column of that Schedule;
- (b) in the case of jewellery made of silver, be of the standard of fineness specified in the first column of Part II of the First Schedule, and comprise the corresponding figure specified in the second column of that Schedule;
- (c) in the case of jewellery made of platinum, be of the standard of fineness specified in the first column of Part III of the First Schedule, and comprise the corresponding figure specified in the second column of that Schedule.

9. State mark

- (1) The State mark shall consist of an engraving of -
 - (a) the dodo bird; and
 - (b) the figure corresponding to the standard of fineness of the jewellery marked,as set out in the Second Schedule.
- (2) A State mark shall be applied only on jewellery that conforms to the standard of fineness specified in the Third Schedule.
- (3) The Controller may assay any jewellery manufactured by a dealer, or on behalf of a dealer, which is presented to the Controller on the completion of its manufacture or at any earlier stage where it can be marked.
- (4) Any jewellery presented to the Controller under subsection (3) shall bear a sponsor's mark but not any fineness mark.
- (5) Where the Controller is satisfied that the jewellery conforms to a standard of fineness specified in the Third Schedule, he shall mark it with the State mark.
- (6) The Controller may refuse to mark any jewellery with the State mark if he is of opinion that the jewellery may be damaged in the course of marking.
- (7) The Controller shall not be held liable for any damage caused to any jewellery during the process of marking.
- (8) The Controller may authorise a dealer to apply the State mark on jewellery which has been manufactured by the dealer, on such terms and conditions as may be prescribed.

10. Sponsor's mark

(1) A sponsor's mark shall include the initials of the dealer and such other letters or figures as may be determined by the Controller, and enclosed in a horizontal hexagonal shape as represented in the Fourth Schedule.

(2) A sponsor's mark shall be specific to a dealer and shall not be assigned to any other person.

(3) No dealer shall use a sponsor's mark on any jewellery unless the mark is registered with the Controller.

(4) For the purpose of subsection (3), the Controller shall keep a register which shall contain an impression of the sponsor's mark and such other information as the Controller may deem necessary.

11. Importer's mark

(1) A dealer who imports jewellery for sale in Mauritius may register his importer's mark with the Controller.

(2) An importer's mark shall include the letters "IM" and 2 other letters as may be determined by the Controller and enclosed in an oval shape as represented in Fifth Schedule.

(3) An importer's mark shall be specific to a dealer and shall not be assigned to any other person.

(4) No importer's mark shall be used on any imported jewellery unless the mark is registered with the Controller.

(5) For the purposes of subsection (4), the Controller shall keep a register which shall contain an impression of the importer's mark and such other details and information that the Controller may deem necessary.

12. Identification mark of manufacturer

A dealer may -

- (a) register with the Controller the mark of identification of each manufacturer whose jewellery he intends to import or he has imported; and
- (b) deposit a facsimile of the mark with the Controller.

13. Assay mark and Common Control mark

(1) Any dealer intending to export jewellery manufactured in Mauritius may cause the jewellery to be marked by the Controller with the Assay mark and Common Control mark.

(2) The Assay mark shall be of such type and shape as may be prescribed.

(3) The Common Control mark shall be as set out in the Sixth Schedule.

(4) No person other than the Controller shall apply the Assay mark or Common Control mark to any jewellery.

(5) The Controller shall keep a register of such marks of Assay Offices of other countries as may be notified to him.

14. Duty to mark jewellery

(1) Any jewellery manufactured in Mauritius, by a dealer or on his behalf, for sale in Mauritius, shall be marked in a legible manner, as follows -

- (a) in the case of jewellery made of gold -
 - (i) either with the fineness mark referred to in section 8(a) or the State mark referred to in section 9(1), and
 - (ii) with the sponsor's mark of the dealer;
- (b) in the case of jewellery made of silver, with the fineness mark referred to in section 8(b);
- (c) in the case of jewellery made of platinum, with the fineness mark referred to in section 8(c).

(2) Any jewellery imported for sale in Mauritius shall be marked in a legible manner, as follows -

- (a) in the case of jewellery made of gold -
 - (i) either with the manufacturer's identification mark referred to in section 12, or with the importer's mark of the dealer; and
 - (ii) with the fineness mark referred to in section 8(a);
- (b) in the case of jewellery made of silver, with the fineness mark referred to in section 8(b);
- (c) in the case of jewellery made of platinum, with the fineness mark referred to in section 8(c).

PART IV – DEALERS IN JEWELLERY

15. Registration of Dealers

(1) No person shall deal in jewellery, or precious or semi-precious stones, unless he is registered with the Controller.

(2) (a) Any person intending to be registered as a dealer under subsection (1) shall make an application to the Controller in such manner, and shall pay such fee, as may be prescribed.

(b) The Controller shall not consider any application unless the prescribed fee has been paid.

(3) The Controller may, where he is satisfied that the prescribed requirements have been complied with, register an applicant as a dealer for a period not exceeding 3 years, and on such other terms and conditions as he may determine.

(4) The Controller may, upon an application in writing by a dealer, renew his registration on such terms and conditions as he may determine, and upon the payment of such fee as may be prescribed.

(5) The Controller shall upon the registration of a person as a dealer or upon the renewal of a registration, issue to the person or dealer, as the case may be, a registration certificate.

16. Refusal to renew registration and suspension or cancellation of registration certificate

(1) The Controller may refuse to renew, or may suspend or cancel the registration of a dealer where the dealer -

- (a) at the time of application for registration, gave any information which was false in any material particular;
- (b) has failed to comply with or contravenes any provisions of this Act; or
- (c) has acted in breach of any of the conditions of registration.

(2) Where a registration is suspended or cancelled under subsection (1), the dealer shall forthwith surrender his registration certificate to the Controller.

17. Cessation of business

(1) Where a dealer intends to cease business, he shall give written notice of his intention to the Controller not less than 30 days before the intended date of cessation.

(2) On receipt of a notice under subsection (1), the Controller may require the dealer to produce -

- (a) any mark for cancellation;
- (b) a list of jewellery in stock; and
- (c) such other information and documents relating to the business as the Controller thinks fit.

(3) Where the Controller becomes aware that a dealer has ceased business without having him been notified as requested under subsection (1), the Controller may, without prejudice to any other action that he may take under this Act, require the dealer to, forthwith, produce -

- (a) any mark for cancellation;
- (b) a list of jewellery in stock; and
- (c) such other information and documents relating to the business as the Controller thinks fit.

18. Sale of unmarked jewellery

No person shall sell, offer for sale or display any jewellery unless, in the case of -

- (a) jewellery manufactured by him or on his behalf, it is marked in accordance with section 14(1);
- (b) imported jewellery, it is marked in accordance with section 14(2).

19. Display of jewellery as model

(1) Notwithstanding any other provision of this Act, an item of jewellery may be displayed as a model, provided it is displayed in the manner approved by the Controller.

(2) In this section, a "model" means an item of jewellery which is not meant for sale and which is used solely for display.

20. Imported jewellery

(1) No person shall import any jewellery unless he is registered under section 15.

(2) Every imported jewellery shall be marked in accordance with section 14.

21. Sale of precious and semi-precious stones

No person shall sell any precious or semi-precious stone, whether loose or set in jewellery, unless it is accompanied by a document certifying the authenticity of the precious or semi-precious stone or a certificate of verification issued under section 25.

22. Records

- (1) Every dealer shall -
 - (a) make a full and true written record, in English or French, of every transaction he makes in relation to jewellery;
 - (b) keep separate records for jewellery made of gold, silver, platinum or of their alloy; and
 - (c) keep any record for a period of not less than 5 years after the completion of the transaction to which it relates.
- (2) Every dealer shall at all times keep, on his business premises, all records available for inspection by the Controller.

23. Receipts

- (1) Every dealer shall issue a serially numbered receipt in respect of -
 - (a) each purchase, sale, or supply to another dealer, of jewellery; and
 - (b) each item of jewellery received for re-manufacture or repair.
- (2) A legible duplicate copy of any receipt issued under subsection (1) shall at all times be kept on the dealer's business premises.
- (3) A dealer shall produce, on request, the duplicate copy of any receipt to the Controller.
- (4) A dealer shall keep the duplicate copy of a receipt for a period of at least 5 years after the completion of the transaction to which it relate.
- (5) A receipt issued under subsection (1) shall, in addition to the serial number, contain the following information -
 - (a) the full name, trading name and business address of the dealer;
 - (b) the date of issue of the receipt;
 - (c) the full name and address of the person from whom the jewellery is purchased or received, or to whom it is sold;

- (d) a detailed description of the jewellery and any precious or semi-precious stone, including the number of items, net mass, the fineness of the precious metal, and the price; and
- (e) such other particulars as may be prescribed.

(6) Where any information required under subsection (5) is not available, the dealer shall not carry out the transaction to which the receipt relates.

PART V – CONTROLLER’S POWERS

24. Assaying

(1) Any person may present any jewellery, or precious metal or its alloy, to the Controller for assaying.

(2) The Controller shall, after assaying, deliver to the person a document certifying the fineness of the jewellery.

(3) The Controller shall not be held liable for any damage caused to the jewellery during the process of assaying.

25. Verification and grading

(1) Any person may present a precious or semi-precious stone, whether loose or set in jewellery, to the Controller for verification.

(2) The Controller shall, after such appropriate examination of the precious or semi-precious stone as he considers necessary, deliver to the person a certificate of verification, which shall certify the authenticity of the precious or semi-precious stone.

26. Inspection

(1) The Controller may, at all reasonable times and after disclosing his identity and the purpose of his visit, enter the business premises of a dealer and require him or the person in charge of those premises at that time -

- (a) to produce for inspection, examination, or reproduction, any -
 - (i) jewellery;
 - (ii) precious or semi-precious stone;
 - (iii) mark;
 - (iv) document relating to any jewellery or to the business transactions of the dealer; and

- (b) to give such assistance and information as may be required for the purposes of this Act.

(2) Where, on an inspection or an examination made pursuant to subsection (1), the Controller has reasonable ground to believe that any provision of this Act has not been complied with, he may remove and retain any item of jewellery, precious or semi-precious stone, punch or document, for such period as may be required, for the purposes of -

- (a) ascertaining the fineness of the jewellery;
- (b) verifying the marking on the jewellery;
- (c) taking copies of or making extracts from any document;
- (d) verifying the authenticity of any precious or semi-precious stone; or
- (e) production before any court of law, where proceedings are contemplated under this Act.

(3) The Controller shall give to the dealer, or the person in charge of the premises, a receipt containing the particulars of the jewellery, precious or semi-precious stone, or document which are to be removed and retained.

(4) Any jewellery, precious or semi-precious stone, or document removed under subsection (2) shall be returned to the dealer as soon as it is no longer required.

27. Notice

The Controller may, by written notice, require any dealer to produce to him, within such time as is specified in the notice, any jewellery, precious or semi-precious stone, punch, record, receipt or document for verification or reproduction, as the case may be.

28. Search and seizure

(1) Where the Controller has reasonable ground to believe that an offence under this Act has been, is being or is likely to be committed, he may, at all reasonable times and after producing a search warrant issued by a Magistrate, enter the business premises of a dealer and seize any mark, jewellery, precious or semi-precious stone, instrument or document which he suspects has been, is being, or is likely to be used, in the commission of that offence.

(2) Any mark, jewellery, precious or semi-precious stone, instrument or document seized under subsection (1) shall be returned to the dealer where proceedings are not instituted or permanently discontinued following the seizure.

PART VI - MISCELLANEOUS**29. Offences**

- (1) Any person who -
- (a) makes an addition, alteration or repair to any jewellery bearing -
 - (i) the mark of the Assay Office of another country which has been duly notified to the Controller under section 13 (5);
 - (ii) the Assay mark;
 - (iii) a sponsor's mark;
 - (iv) the Common Control mark; or
 - (v) a fineness mark,without the consent of the Controller;
 - (b) removes, alters or defaces any mark borne on a jewellery, without the written consent of the Controller;
 - (c) has in his possession, or under his control, a mark, or jewellery which bears a mark, which he knows or should have known to be a counterfeit mark;
 - (d) makes use of a false or counterfeit mark or sells, or offers for sale, or displays jewellery which bears a false or counterfeit mark;
 - (e) sells, offers for sale, or displays jewellery with a mark which is not registered;
 - (f) makes use of the State mark without authorisation;
 - (g) applies a sponsor's mark or an importer's mark to any jewellery without authorisation;
 - (h) applies any mark in such a way that it is not legible;
 - (i) produces a statement, record or document which is incorrect, false or misleading in any material particular;
 - (j) obstructs or hinders the Controller in the exercise of his powers or duties under this Act;

- (k) issues a receipt which is incorrect, false or misleading in any material particular;
- (l) strikes any imported jewellery with a sponsor's mark;
- (m) sells, offers for sale, or displays any fake precious or semi-precious stone,

shall commit an offence.

(2) Any person who, otherwise, breaches this Act shall commit an offence.

(3) Any person who commits an offence-

(a) under subsection (1) shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;

(b) under subsection (2) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(4) The Court may, in addition to imposing any penalty provided for under subsection (3), order the forfeiture of any mark, jewellery or instrument used in the commission of the offence.

(5) It shall be no defence to a prosecution for an offence under this Act that the person charged did not know, or did not have reasonable cause to believe, that the fineness mark on a jewellery was not indicative of its true standard of fineness.

30. Jurisdiction

Notwithstanding -

- (a) section 114(2) of the Courts Act; and
- (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try any offence under this Act and may, on conviction, impose any penalty or forfeiture provided for under this Act.

31. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for -

- (a) the amendment of the Schedules;

- (b) the levying of fees and the payment of charges;
- (c) the registration of dealers;
- (d) the registration of any mark;
- (e) the use of the State mark by dealers; or
- (f) the verification and grading of precious and semi-precious stones.

32. Savings

(1) Any register made and kept under the repealed Jewellery Act shall be deemed to have been made under this Act.

(2) The members of the Jewellery Advisory Council under the repealed Jewellery Act shall stay in office as members of the Council which shall be deemed to be duly constituted, until the constitution of the new Council under this Act.

(3) The person holding the office of Controller of Assay, or acting as such, prior to the commencement of this Act shall continue to do so on the coming into force of this Act.

33. Transitional provisions

(1) Any licence or certificate issued, or registration effected before the coming into operation of this Act which has been issued, extended or renewed under the repealed Jewellery Act, shall on the coming into operation of this Act, remain valid for the unexpired portion of the period for which it was issued, extended or renewed.

(2) Any proceedings in respect of offences committed or alleged to have been committed against the repealed Jewellery Act may be commenced or continued as if this Act has not come into operation.

(3) Any application made under the repealed Jewellery Act shall be considered as made under this Act, and the Controller may request such additional information as he may deem necessary and the payment of such fees as have been prescribed under this Act, to complete consideration of such application.

(4) Where this Act does not make provision for the necessary transition from the repealed Act to this Act, the Minister may make such regulations as may be necessary for such transition.

34. Repeal

The Jewellery Act 1999 is repealed.

35. Commencement

(1) This Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections.

FIRST SCHEDULE (sections 8 and 14)

Part I

First Column	Second Column	Third Column
Category	Standard of fineness Gold or its alloy	Figure
9-carat	A minimum of 375.0 parts per thousand	375
14-carat	A minimum of 583.3 parts per thousand	585
18-carat	A minimum of 750.0 parts per thousand	750
20-carat	A minimum of 833.3 parts per thousand	835
22-carat	A minimum of 916.6 parts per thousand	916
24-carat	A minimum of 999.9 parts per thousand	999

Part II

First Column	Second Column
Standard of fineness Silver alloy of	Figure
A minimum of 830 parts per thousand	830
A minimum of 925 parts per thousand	925

Part III

First Column	Second Column
Standard of fineness Platinum alloy of	Figure
A minimum of 950 parts per thousand	950

Second Schedule
(Section 9(1))

Engraving

Part A



18 Carats

Part B



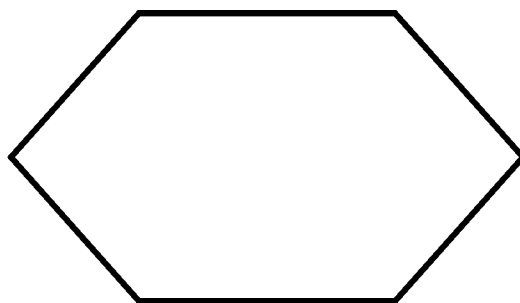
22 Carats

THIRD SCHEDULE
(section 9(2))
State Mark

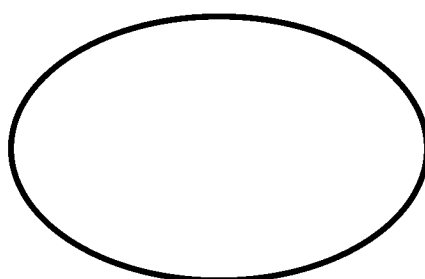
Standard of fineness
Gold alloy of –

18-carat	A minimum of 750.0 parts per thousand
22-carat	A minimum of 916.6 parts per thousand

FOURTH SCHEDULE
(section 10)

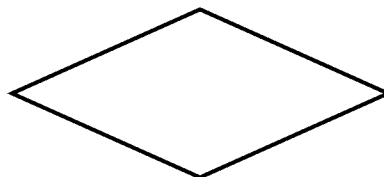


FIFTH SCHEDULE
(section 11)



SIXTH SCHEDULE
(section 13)

Platinum articles



Gold articles



Silver articles

