

**DE BEERS BOTSWANA MINING COMPANY (PROPRIETARY)  
LIMITED AGREEMENT (AMENDMENT) (RATIFICATION) ACT,  
1975**

**No. 29**



**of 1975**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Ratification of Agreement

**SCHEDULE**

**An Act to ratify an Agreement between the Government,  
De Beers Botswana Mining Company (Proprietary) Limited  
and The Diamond Corporation Botswana (Proprietary)  
Limited**

*Date of Assent:* 5.8.75.

*Date of Commencement:* 15.8.75.

ENACTED by the Parliament of Botswana.

**1.** This Act may be cited as the De Beers Botswana Mining Company (Proprietary) Limited Agreement (Amendment) (Ratification) Act, 1975. Short title

**2.** The Agreement entered into between the Government of the Republic of Botswana, De Beers Botswana Mining Company (Proprietary) Limited and The Diamond Corporation Botswana (Proprietary) Limited on the 22nd July, 1975, and set out in the Schedule is hereby ratified. Ratification of Agreement

## SCHEDULE

(section 2)

MEMORANDUM OF AGREEMENT made and entered into by and between the GOVERNMENT OF THE REPUBLIC OF BOTSWANA (hereinafter referred to as "the Government"), and DE BEERS BOTSWANA MINING COMPANY (PROPRIETARY) LIMITED (hereinafter referred to as "the Mining Company"), and THE DIAMOND CORPORATION BOTSWANA (PROPRIETARY) LIMITED (hereinafter referred to as "Dicorbot"); the Mining Company and Dicorbot being companies incorporated under the laws of Botswana having their respective registered offices at Botsalano House, The Mall, Gaborone.

WITNESSETH:

THAT WHEREAS on the 2nd March, 1970, an agreement was entered into between the Government and the Mining Company providing for the payment of tax and royalty, such agreement being amended by an agreement entered into between the same parties dated the 10th August, 1972, providing, *inter alia*, for the sale by Debswana of its diamonds to Dicorbot, (such agreement as so amended being hereinafter referred to as "the Agreement").

AND WHEREAS the Agreement was ratified by Acts of Parliament, namely, the De Beers Botswana Mining Company (Proprietary) Limited Agreement Act, 1970, and the De Beers Botswana Mining Company (Proprietary) Limited Agreement (Amendment) Act, 1972.

AND WHEREAS it has been agreed that Dicorbot should become a party to the Agreement, and the parties hereto have agreed to amend the Agreement in the manner hereinafter appearing.

NOW THEREFORE the parties hereto agree as follows —

1.

Clauses 1, 3, 5, 6, 7, 8, 9 and 11 of the Agreement be and they are hereby deleted.

2.

Clause 4 of the Agreement shall be amended to read as follows —

"(a) The rates of taxation applicable in Botswana from time to time in respect of resident companies generally and in respect of dividends payable to non-resident shareholders shall apply to the mining company and to Dicorbot and, as the case may be, to dividends payable to their non-resident shareholders.

(b) In ascertaining the chargeable income of the Mining Company for income tax purposes, deductions to be allowed from the assessable income of the Mining Company for any tax year shall include royalties paid by it in that tax year under the Mines and Minerals Act in respect of its diamond production.

(c) Notwithstanding section 30 (1) (b) of the Income Tax Act, no amounts accrued to The Diamond Corporation (Pty.) Limited, The Diamond Corporation Botswana (Proprietary) Limited, Anglo American Corporation of South Africa Limited, Anglo American Corporation Botswana (Services) (Proprietary) Limited or The Botswana Diamond Valuing Company (Proprietary) Limited which are related to the Mining Company's mining operations pursuant to the State Grants hereinafter referred to shall be included in the gross income of the Mining Company."

3.

A new clause shall be inserted at the end of the Agreement, as follows —

“This Agreement shall apply to the taxation of the Mining Company and Dicorbot and their non-resident shareholders under the Income Tax Act and to the waiver of the additional diamond royalties provided for under section 54 of the Mines and Minerals Act, in each case in respect of the diamond production of the Mining Company pursuant to State Grant 10/1971 and to the State Grant to be issued in respect of a new mine to be opened in an area near Letlhakane known as 2125 DK1/2.”.

4.

This Agreement shall be presented to Parliament for ratification and shall come into force on such ratification.

Upon ratification in accordance with clause 4 hereof, this agreement shall be deemed to have come into effect retrospective from 1 January, 1975.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands.

SIGNED by Q.K.J. MASIRE

for and on behalf of the Government of the Republic of Botswana on the 22nd day of July, 1975, in the presence of the undersigned witnesses.

*As witnesses:*

1. E.G. MOGAE
2. J.M. NGANUNU

SIGNED by M.S. McCRUM

for and on behalf of De Beers Botswana Mining Company (Proprietary) Limited on the 22nd day of July, 1975, in the presence of the undersigned witnesses.

*As witnesses:*

1. L.G. NCHINDO
2. D.G. MINNES

SIGNED by L.G. NCHINDO

for and on behalf of The Diamond Corporation Botswana (Proprietary) Limited on the 22nd day of July, 1975, in the presence of the undersigned witnesses.

*As witnesses:*

1. M.S. McCRUM
2. D.G. MINNES

Passed by the National Assembly this 23rd day of July, 1975.

I.P. GONTSE,  
*Clerk of the National Assembly.*