CHAPTER 46

GOLDSMITHS AND SILVERSMITHS ACT

Substituted by: IX. 2003.6.

An Act to regulate Goldsmiths and Silversmiths.

Substituted by: IX. 2003.6.

1st December, 1920

ORDINANCE XII of 1920 as amended by Act X of 1932; Ordinance II of 1938; Acts: XXII of 1949, XXV of 1962; Legal Notices: 4 of 1963, 46 of 1965; and Acts: VII of 1966, XXXI of 1971, LVIII of 1974, XI of 1977, XLIX of 1981, II of 1982, VIII and XVIII of 1990, XXVII of 2001, IX of 2003, III of 2004 and VII of 2021[*].

Short title. *Amended by: IX. 2003.7.*

1. The short title of this Act is the Goldsmiths and Silversmiths Act.

Interpretation. *Substituted by: IX. 2003.8. Amended by: III. 2004.104; VII.2021.3.*

2. In this Act, and in any regulations made thereunder -

"an alloy of a precious metal" is a solid solution of a precious metal and one or more other metals;

"Authority" means the Malta Competition and Consumer Affairs Authority as established by article 3 of the Malta Competition and Consumer Affairs Authority Act; Cap. 510.

"authorized" unless otherwise specified, means empowered by the Minister or his equivalent in a Member State or by an appropriate European Union Agency or by any person designated by the aforementioned in accordance with the provisions of this Act;

"authorized hallmarking body" is a person independent of the manufacturer or sponsor of a precious metal article, authorized to imprint an office mark on the said article;

"Consul" means the Consul for the Goldsmiths and Silversmiths and the functions and duties of the Consul shall be discharged by the Director General (Standards and Metrology) or any public officer authorised in writing by the Director General to discharge such duties;

"dealer" means any person who deals in precious metal articles or precious stones;

"European Union" means the European Union referred to in the Treaty;

"fineness mark" is a mark in arabic numerals imprinted on the precious metal alloy of a precious metal article representing the standard of fineness of the said alloy, and the type of precious metal therein;

"Malta" has the same meaning as assigned to it by article 124 of the Constitution of Malta;

"manufacturer" is a person who makes precious metal articles;

*See Legal Notice 270 of 2021.

"manufacturer's hallmark" is an imprint which a manufacturer is authorized to apply on a precious metal article comprising the manufacturer's mark and a standard mark;

"manufacturer's mark" is the identifying mark on a precious metal article which a manufacturer is authorized to imprint on the precious metal article he manufactures;

"Member State" means a state which is a member of the European Union;

"Minister", unless otherwise provided in this Act, means the Minister responsible for the Authority;

"office hallmark" is an imprint on a precious metal article applied by an authorized hallmarking body comprising at least a standard mark;

"placed on the market" means in any way made available on the market in the territory of Malta with a view to the distribution and, or, use in the said territory or in such other territory as may be prescribed;

"precious metal" means gold, platinum, palladium and silver in the pure state and their alloys;

"precious metal article" is any fully manufactured item of jewellery, goldsmith's or silversmith's ware or watchmaker's ware and any other complete object made entirely or in part from a precious metal;

"prescribed" means as prescribed by regulations under the Act;

"sponsor" means a person who undertakes the same responsibilities as the manufacturer;

"sponsor's hallmark" is an imprint which a sponsor is authorized to apply on a precious metal article comprising the sponsor's mark and a standard mark;

"sponsor's mark" is the identifying mark which a sponsor is authorized to imprint on a precious metal article;

"standard" is the fractional content by weight of pure precious metal in a precious metal alloy;

"standard of fineness" shall be the number representing the number of parts by weight of pure precious metal in one thousand parts by weight of a precious metal alloy (millesims);

"standard mark" is a mark imprinted on the precious metal alloy of a precious metal article representing the standard of the alloy and the type of precious metal therein;

"Standards and Metrology Institute" means the national body established under Part VII of the Malta Competition and Consumer Affairs Authority Act;

Cap. 510.

Cap. 460.

"the Treaty" has the same meaning assigned to it in the European Union Act.

Nominal standards. *Substituted by: IX. 2003.8.*

3. The nominal standards for precious metal articles shall be as may be such as prescribed.

Stamping of precious metal articles. *Substituted by: IX. 2003.8.*

4. No precious metal article shall be placed on the market if -

(i) save as may be prescribed, the said article is imprinted with a standard mark which is superior to the actual standard of the precious metal;

(ii) the said article bears two or more differing standard marks except in cases where it consists of components made of various precious metals;

(iii) the said article does not bear either (*a*) an office hallmark or (*b*) a manufacturer's or sponsor's hallmark;

(iv) the marks referred to in sub-paragraph (iii) do not bear such other further characteristics as may be prescribed;

(v) in case the article is made up of various precious metals it is not marked in accordance with sub-paragraphs (iii) and (iv) for the various precious metal parts.

Exemptions. *Substituted by: IX. 2003.8. Amended by: III. 2004.105.*

5. The provisions of article 4(iii), (iv) and (v) shall not apply to -

(*a*) any precious metal article which cannot bear the pressure of the stamp without being broken or losing the necessary solidity or on which it is technically difficult to imprint the required marks;

(*b*) any precious metal article having an antiquarian value;

(*c*) objects of precious metal for scientific, technical, musical or medical use;

(*d*) legal tender made of precious metal and collectors' coins and medals issued by or on the authority of a State;

(*e*) ingots or granules of precious metal for banking use;

(*f*) small articles weighing less than one gram in the case of gold and platinum and three grams in the case of silver and palladium or such other weight as may be prescribed;

(*g*) semi-manufactured precious metal articles;

(*h*) articles which are not made of precious metal but are plated with precious metal or are otherwise laminated or coated with thin precious metal foil.

Standards of solder. *Substituted by: IX. 2003.8.*

6. The standards of solder that shall be used for joining component parts of precious metal articles shall be such as may be prescribed.

Documentation accompanying precious metal articles. *Substituted by: IX. 2003.8; III. 2004.106.*

7. No precious metal articles shall be placed on the market if -

(i) such an article, marked in accordance with the provisions of article 4 and containing a non-precious metal part or parts is not accompanied by such documents as the Consul may require or

as may be prescribed;

(ii) such an article, exempt from marking under the provisions of article 5 is not accompanied by a document or certificate as may be prescribed;

(iii) such an article does not carry a label clearly indicating the type of precious metal alloy or alloys making up the article and the standard of fineness thereof except as may be prescribed.

Manufacturers' responsibility. *Substituted by: IX. 2003.8.*

8. (1) Manufacturers may not make use of any other manufacturers' or sponsors' marks or hallmarks and they may only imprint their manufacturer's mark or hallmark on precious metal articles they themselves manufacture.

(2) The manufacturer shall be responsible for the accuracy of the standard mark in the manufacturer's hallmark.

Sponsor's responsibility. *Substituted by: IX. 2003.8.*

9. (1) Sponsors may not make use of other sponsors' or manufacturers' marks or hallmarks and they may only imprint their sponsor's mark or hallmark on precious metal articles of which they are sponsors.

(2) The sponsor shall be responsible for the accuracy of the standard mark in the sponsor's hallmark.

Consul's Office mark. *Substituted by: IX. 2003.8.*

10. (1) The Consul shall be an authorized independent hallmarking body.

(2) The Consul may imprint the Office hallmark in accordance with the regulations which shall, from time to time, be made by the Minister.

(3) The Office hallmark imprinted by the Consul shall be as prescribed.

(4) The imprinting of an Office hallmark shall be subject to the fees as may be prescribed.

Declaration of homogeneity. *Substituted by: IX. 2003.8.*

Cap. 9.

11. (1) Any person who incorrectly declares that any precious article or part thereof presented to the Consul for imprinting with the Consul's Office hallmark or for certification is of a homogeneous substance or does not conceal extraneous substances, shall be liable to the punishments established in the Criminal Code for contraventions.

(2) Any person who fraudulently declares that a precious metal article or part thereof presented to the Consul for imprinting with the Consul's Office hallmark or for certification is of a homogenous substance or does not conceal extraneous substances, shall, on conviction, be liable to imprisonment for a term not exceeding eighteen months.

(3) If by means of any such fraudulent declaration any person procures the imprinting or certification of a precious metal article which conceals any extraneous substances, or is not of a homogeneous substance, or if any person alters one or more parts of an imprinted precious metal article, or conceals therein any extraneous substances, such person shall on conviction, be liable to

imprisonment for a term not exceeding two years.

(4) No proceedings shall be taken against any person who has made an incorrect or fraudulent declaration that a precious metal article or part thereof presented to the Consul for the imprinting with the Consul's Office hallmark or for certification if is of a homogenous substance, before the lapse of eight days from the day on which a notice to that effect is given to him by the Consul; within which time such person may require that the precious metal article or part thereof so presented be melted down and that of the substance so obtained the Consul shall make a second assay.

Authorization of manufacturers' and sponsors' marks. *Substituted by: IX. 2003.8.*

12. (1) The Consul shall authorize manufacturers' and sponsors' marks and hallmarks in accordance with regulations which shall, from time to time be made by the Minister.

(2) Authorization of a sponsor's mark or hallmark shall be granted without prejudice to the sponsor's obligation to fulfil any requirements in order to align himself with any local or international patent law.

(3) Such authorization shall be subject to a fee as may be prescribed.

Inspections by the Consul. *Substituted by: IX. 2003.8.*

13. (1) The Consul shall at any time, inspect any premises or location where trading or manufacturing of precious metal articles is carried out or where such articles are imprinted in order to ascertain that the provisions of this Act, or of any regulations made thereunder are being observed and to collect any samples or articles for the said purpose.

(2) The procedure to be followed in the collection of samples or articles in terms of sub-article (1) shall be as prescribed.

(3) Any articles or samples collected in accordance with sub-articles (1) and (2) are not subject to compensation.

(4) Any articles or samples collected in accordance with sub-articles (1) and (2) and found by the Consul not to be in accordance with the provisions of this Act, shall be delivered to the Commissioner of Police.

Valuations. *Substituted by: IX. 2003.8. Amended by: VII.2021.4.*

14. (1) Valuations shall be based on the prices prevailing on the international market as prescribed.

(2) The Consul shall be the official valuer for precious metal articles and shall base his valuation on the official price of precious metals which valuation shall be subject to the fees as may be prescribed.

Trade records. *Substituted by: IX. 2003.8.*

15. (1) It shall not be lawful for any manufacturer, sponsor, dealer or any trader to purchase any precious metal articles or precious stones, from any person unknown to them without first showing such articles or precious stones to the Consul.

(2) The Consul to whom any such articles or precious stones are presented shall make an entry thereof for that purpose, specifying the weight, quality and value thereof, the day on which the same were presented to him, and the particulars of the person

by whom they were so presented.

(3) The provisions of sub-article (1) shall not apply where the purchase is made at a judicial sale or at a sale of pledges of *Il-Monti*.

Return of stocks. *Substituted by: IX. 2003.8.*

16. (1) The Consul may, at any time by notice in writing, require from any person who deals in precious metal articles or precious stones a return showing the details set out in the notice regarding the stocks of any such articles or precious stones held by such a person on any date specified in the notice before the opening for business, being either the date of the receipt of the notice or a subsequent date.

(2) The notice referred to in sub-article (1) shall prescribe the time limit, which shall in no case be less than six days from the receipt of such notice, within which the return is to be submitted to the said Consul.

Punishments for offences. *Substituted by: IX. 2003.8.*

17. Saving the provisions of article 11 of the Act and articles 19 and 543 of the Criminal Code, it shall be lawful for any Court of Magistrates, sitting as a court of criminal judicature, to award for any offence against this Act, or against any of the regulations made thereunder, any of the punishments established in the said Code for contraventions or two or more of such punishments cumulatively according to circumstances.

Power to make regulations. *Substituted by: IX. 2003.8.*

18. The Minister may make regulations generally for the better carrying out of the provisions of this Act and may in particular by such regulations make rules regulating the recognition of authorizations of authorized hallmarking bodies and prescribe anything that is or may be prescribed in accordance with this Act.

Transitory provisions. *Substituted by: IX. 2003.8; III. 2004.107.*

19. Any article imprinted or exempt from such imprinting under the provisions of the Goldsmiths and Silversmiths Ordinance shall for a transitory period of two years from the 1st April, 2004 be deemed to be in compliance with the provisions of this Act.