



Your duty of examination when buying gemstones for commercial purposes

If you are a gemstone trader and buy gemstones from residents in Greenland with or without a small-scale licence, you may, depending on the circumstances, have a duty to examine whether the gemstones have been legally collected or mined in accordance with the rules of the Mineral Resources Act to prevent that the Greenland Mineral Resources Authority later requires a surrender of the gemstones.

The Mineral Resources Authority may demand surrender of illegally collected or mined gemstones purchased by gemstone traders in bad faith. A gemstone trader has acted in bad faith if, at the time of purchase of the gemstones, he knew or ought to have known that the gemstones had been illegally collected or mined.

Non-residents are not allowed to collect or mine minerals in Greenland. So, if you buy gemstones knowing that you buy them from a non-resident who has collected or mined the gemstones, the Mineral Resources Authority may require you to surrender the gemstones because in such a situation, you would, as a gemstone trader, by definition have acted in bad faith. If the non-resident has bought the stones from a resident, the resident must issue a receipt for the payment. In such a case, a gemstone trader must demand to see a receipt to be acting in good faith regarding the legality of the gemstones. In order to meet your duty of examination when you buy gemstones, you must always require a copy of the receipt, and for special minerals, also a receipt of valuation from the Mineral Resources Authority, which can be presented to the authorities as evidence of the legality of the gemstones.

As mentioned, a gemstone trader who buys gemstones from a resident in Greenland is acting in bad faith if, at the time of purchase of the gemstones, he knew or ought to have known that the gemstones had been illegally collected or mined. This means that the authorities will assess whether you have exercised due care as a reasonably prudent person would do in similar circumstances and whether a reasonably prudent person ought to have realised that the relevant gemstones had been collected or mined contrary to the Mineral Resources Act. If the authorities assess that a reasonably prudent person ought to have realised this, it is deemed to constitute acting in bad faith.

If you suspect that the gemstones have been collected or mined contrary to the provisions of the Mineral Resources Act, or if in doubt, you should seek to clarify

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whether that is the case. To be acting in good faith, you must be satisfied that the gemstones have been legally collected and mined, for instance by receiving a (credible) explanation from the seller or documentation for the legality of the gemstones or, if you are still not satisfied, by contacting the Mineral Resources Authority. In particular, in respect of “special minerals” subject to the duty to obtain a valuation from the Mineral Resources Authority under Executive Order No. 5 of 26 June 2019 issued by the Government of Greenland on the sale and export of minerals (see the list below), it is easy to examine the legality of a gemstone as you can ask to see a receipt for the valuation. According to the Executive Order, anyone who wishes to sell minerals included in the below list is required to have the minerals valued by the Mineral Resources Authority before selling them.

Whether you should suspect that a gemstone has been illegally collected or mined will depend on an assessment in each individual case. The assessment will primarily focus on factors relating to the conclusion of the sale, but circumstances of a general nature may also play a role. If, for instance, you know that a specific type of gemstone exists almost only at places subject to exclusive licences, you should exercise special care. The same applies if a sale concerns a large amount of gemstones or high-value gemstones.

Residents in Greenland may, for example, collect and mine minerals of a value of up to DKK 100,000 each year. If you are offered to buy a gemstone worth more than DKK 100,000, it would therefore be relevant to check whether the seller has a small-scale licence. If a resident is in possession of gemstones worth more than DKK 100,000, the gemstones are not necessarily illegally collected; it may be that they have been collected over a longer period. In such a case, you should contact the Mineral Resources Authority to make sure that the gemstones have been legally collected as it may be very difficult to prove if proceedings are later issued.

Another example of where special care is required is cases where the seller will not normally be able to lawfully come into possession of the gemstones. Only relatively few people are mining gemstones commercially, and gemstone traders will often know which people have the rights and expertise to mine specific types of gemstones legally. If you do not know the seller, you should exercise special care. The same applies if the seller offers other types of gemstones for sale than normally.

If you have resold the gemstones to a buyer in good faith and complied with applicable rules on the issue of receipts, the Mineral Resources Authority cannot demand surrender of the gemstones from the buyer (for instance, a tourist who is allowed to bring gemstones home from Greenland if he or she presents a valid receipt). If the above conditions for the Mineral Resources Authority being allowed to demand surrender of the gemstones are satisfied, the Mineral Resources Authority may claim reimbursement from the money that you have received for the gemstones.

Special minerals

Under section 2 (iv) of this Executive Order, the following minerals are special minerals:

The weight of the raw mineral is above 0.5 g or the weight of the cut mineral is above 0.5 carat/0.1 g <u>and</u> the mineral has a transparency corresponding to either semi-transparent or transparent
Type of mineral
Beryl
Garnet, green (demantoid or tsavorite)
Ruby (corundum)
Sapphire (corundum)
Sapphire, coloured or colourless (corundum)
Spinel
Tugtupite
Tourmaline
The weight of the raw mineral is above 0.5 g or the weight of the cut mineral is above 0.5 carat/0.1 g
Type of mineral
Beryl, star or cat's eye
Chrysoberyl, cat's eye
Ruby, star or cat's eye (corundum)
Sapphire, star or cat's eye (corundum)
Sapphire, star or cat's eye, coloured or colourless (corundum)
Spinel, star or with colour change
Independent of weight, colour or transparency
Type of mineral
Benitoite
Chrysoberyl (Alexandrite), colour changing
Diamond
Grandidierite
Jadeite
Jeremejevite
Musgravite
Opal
Painite
Poudretteite
Serendibite
Emerald
Taaffeite