

GOVERNMENT NOTICE NO. 137 published on 8/2/2019

THE MINING ACT

(CAP.123)

REGULATIONS

(Made under Section 112)

THE MINING (DIAMOND TRADING) REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Mining (Diamond Trading) Regulations, 2019.

2. In these regulations, unless the context otherwise requires:-

“Act” means the Mining Act;

“Commission” means the Mining Commission established under section 21 of the Mining Act;

“Conflict Diamonds” means rough diamonds used by rebel movements or their allies to finance conflicts aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar resolutions of UNSC, which may be adopted in the future, and as understood and recognised in United Nations General Assembly (UNGA) Resolution No. 55/56, or in other similar resolutions of UNGA, which may be adopted in future;

- Interpretation
Act No. 5
of 1998
Cap.123
- “country of origin” means the country where a shipment of rough diamonds has been mined or extracted;
- “country of provenance” means the last country from where a shipment of rough diamonds was exported, as recorded on import documentation;
- “diamond” means a natural mineral consisting essentially of pure crystallised carbon in the isometric system, with a hardness on the Mohs (scratch) scale of 10, a specific gravity of approximately 3.52 and a refractive index of 2.42;
- “export” means the physical leaving or taking out from any part of the geographical territory of the United Republic;
- “exporting aAuthority” means the authority designated by a country from whose territory a shipment of rough diamonds is leaving;
- “Free Trade Zone” means a part of the territory of the United Republic where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the customs territory;
- “import” means the physical entering or bringing into any part of the United Republic;
- “importing aAuthority” means the authority designated by a country into whose territory a shipment of rough diamonds is imported;:
- “Kimberley Process” means an international certification scheme for rough diamonds;
- “Kimberley Process Certificate” means a certificate which identifies a shipment of rough diamonds as being in compliance with the requirements of the international certification scheme;
- “parcel” means one or more diamonds that are packed together and that are not individualised;

“participant” means a state, international organisation of states, independent territory of state, or a customs territory for whom the certification scheme is effective;

“Rough diamonds” means that are un-worked or simply sawn, cleaved or bruted and fall under the International Harmonised Commodity Description and Coding System i.e. 7102.10: unsorted, worked or unworked diamonds, 7102.21: industrial diamonds which are unworked; and 7102.31: non-industrial diamonds which are simply sawn, cleaved or bruted.

“Shipmentshipment” means one or more parcels that are physically imported or exported; and

“transit” means the physical passage across a territory of a country with or without trans-shipment, warehousing or change in mode of transport, when such passage is only a portion of a complete journey beginning and terminating beyond the frontier of the country across whose territory a shipment passes.

PART II

CONTROL AND SUPERVISION OF DIAMOND PROSPECTING AND MINING

Control and supervision of diamond prospecting and mining
Cap.123

3. No person shall engage or permit any other person to carry out any mining, concentration, treatment, recovery of or prospecting for diamonds except under the authority granted, or deemed to have been granted under the Mining Act.

Supervision
by
authorised
miner

4. Subject to the provisions of rRegulation 5, no authorised miner shall permit any person to engage in mining, concentration, treatment, recovery of or prospecting for diamonds except under his own personal supervision or that of another authorised miner.

Temporary
supervision
by
employees

5.-(1) An authorised miner may appoint one of his employees to exercise temporary supervision during his absence, and on every occasion when the authorised miner is absent, he shall provide such employee with a written authority stating the reasons for his absence and the time at which the temporary supervision commences.

(2) Notwithstanding anything contained in these regulations, no employee appointed to exercise temporary supervision shall be permitted or shall himself permit any person to gravitate or sort diamonds, and no written authority shall include or be deemed to include permission or consent to gravitate or sort:

Provided that, the working of a machine actually employed in washing and in motion when the temporary supervision commences may be allowed to continue during the absence of the authorised miner.

Licensed
persons to
avoid
conflict
diamonds

6. Each person licensed to prospect or mine diamonds shall take and maintain effective security measures to ensure that conflict diamonds do not contaminate legitimate production.

PART III
DEALING IN DIAMONDS

No
exportation
without
permit

7. No authorised miner and noor licensed dealer shall export any rough diamonds which, in the case of an authorised miner, has been produced by him from the mining area, or in the case of a licensed dealer, has been purchased by him from an authorised miner or a licensed broker, unless-

(a) he has obtained from the Commission a certificate to export the rough diamonds which evidence the payment by the authorised miner of royalty or provisional royalty, or, in the case of a licensed dealer, the making of a payment or a provisional

GN. No. 137 (contd.)

payment in lieu of royalty, in accordance with the provisions of Part VI of the Act;

(b) the rough diamonds are exported to a participant in accordance with conditions set forth in the Export Permit and not inconsistent with the Mining Act;

(c) in the case of bulk geological samples, core or chips, he has obtained an export certificate from the Commission.

No import
without
permit

8. No authorised miner and noor licensed dealer, licensed broker or authorised lapidary may import any rough diamonds unless the diamonds are from a participant and he has obtained from the Commission a permit to import the same.

Export of
diamonds

9.-(1) An application for a certificate to export rough diamonds shall be in the Form DTF 1 set out in the First Schedule to these Regulations and shall be accompanied by a declaration that the rough diamonds are being exported to a participant and they do not contain conflict diamonds.

(2) An application for a certificate to export rough diamonds shall be accompanied by a prescribed fee contained set out in the Second Schedule. to these regulations.

(3) A person whose application under sub-regulation (1) above is granted shall be issued with a certificate to export diamonds in the Form DTF 2 set out in the First Schedule to these regulations.

(4) A certificate to export rough diamonds shall be issued only in respect of diamonds which have first been examined and weighed by the Commission and packed in tamper proof containers, the outer cover of which has been sealed at every opening with a seal of the Commission or such seal as the Commission may, in writing, may approve.

(5) A certificate to export diamonds shall cease to be valid:-

- (a) if the export is not effected within thirty days from the date upon which it was issued;
- (b) in the event of the container, parcel or any of the seals affixed to the container or parcel being broken before inspection at the port of exit or before inspection by importing authority;
or
- (c) if the certificate has been tampered with.

