

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

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.

(6) Every certificate to export diamonds shall be surrendered by the exporter to the importing authority of the country into whose territory a shipment of rough diamonds is imported.

Import of diamonds

10.—(1) An application for a permit to import diamonds shall be in the Form DTF 3 set out in the First Schedule to these regulations and shall be accompanied by a declaration that the rough diamonds being imported are from a participant and they do not contain conflict diamonds.

(2) An application for a permit to import rough diamonds shall be accompanied by a prescribed fee as provided for in the Second Schedule to these regulations.

(3) A person whose application under sub-regulation (1) above is granted shall be issued with a permit to import rough diamonds in the Form DTF 4 set out in the First Schedule to these regulations.

(4) Every permit to import rough diamonds shall be subject to the condition that, upon arrival in the United Republic of the shipment to which the permit relates, the validity of the permit shall be confirmed by the Commission by an endorsement thereon to that effect before a Collector of Customs may release such rough diamonds.

(5) For the purpose of confirmation of the validity of a permit under sub-regulation (4), the permit shall be submitted to the Collector of Customs who shall forthwith forward the same to the Commission.

(6) The Commission or any person authorised by the Commission, shall inspect the shipment of rough diamonds to verify that the seals and the container have not been tampered with and that the export was performed in accordance with the requirements of the Kimberly Process Certificate.

(7) The Commission or any person authorised by the Commission, shall open and inspect the contents of the shipment to verify the details declared on the Kimberley Process Certificate.

(8) When Where a Collector of Customs receives a permit to import rough diamonds whose validity has been duly confirmed by the Commission in Form IC-1 as specified in the First Schedule under these regulations, he shall:-

- (a) endorse on such permit the date and place of importation of the rough diamonds to which the permit relates and his signature;
- (b) return such permit to the importer for retention as an authorization for the possession of the rough diamonds imported; and
- (c) release the rough diamonds to the importer.

(9) Where applicable and when requested, the Commission may send the return slip or import confirmation certificate to the relevant eExporting Authorityauthority.

Invalida-
tion of
Certificate
certificate
or permit

11. Where the Commission determines that the information provided by an applicant in order to obtain a certificate of exportation, or import permit, or the information appearing on such certificate of permit is inaccurate or has changed, the Commission may invalidate the certificate or permit as the case may be.

Seizure of
in-transit
rough
diamonds

12.—(1) The Commission may order seizure of in-transit rough diamonds if a Kimberley Process Certificate does not accompany them, or are in a container that has been opened.

(2) The Commission may order in-transit rough diamonds accompanied by a Kimberley Process Certificate to be returned to the participant who issued the certificate if they arrive in the country in a container that has been opened.

PART IV

INFORMATION, RECORDS AND REGISTERS

Keeping
of register

13.—(1) Every authorised diamond miner, licensed dealer and licensed broker shall keep an accurate register of all receipts, despatches or disposal by him and every entry made shall be signed at the time of such entry by the authorised miner, licensed dealer or licensed broker.

GN. No. 137 (contd.)

(2) All authorised diamond miners, licensed dealers and licensed brokers shall keep for a period of five years daily mining, buying, selling or exporting records listing the names of buying or selling clients, their license numbers and the amount and value of rough diamonds sold, exported or purchased.

Copies of
monthly
registers to
be sent to the
Commission

14. On or before the third day of each calendar month, the authorised miner, licensed dealer or licensed broker shall forward to the Commission a true and correct copy in duplicate of all the entries made by him in the preceding month in the rough diamonds register and every such copy shall be signed and certified to be a true and correct copy by the authorised miner, licensed dealer or licensed broker as the case may be.

Commission
to maintain a
database

15. The Commission shall maintain a register with the information provided by authorised miners, licensed dealers and licensed brokers on production statistics, sales, exports, imports and such other information as it may think is necessary in the administration of the Act.

Disclosure of
information

16. The Commission may disclose any information received, gathered or maintained in the course of administration of these regulations Regulations or the Act.

PART V
MISCELLANEOUS

Punishment
penalty for
offences

17.-(1) Any person who contravenes any of the provisions of these regulations commits an offence and shall on conviction shall be liable:-

- (a) in the case of an individual, to imprisonment for a term not exceeding three years (3) or to a fine not exceeding US dollars twenty thousand (US\$ 20,000) or to both;
- (b) in the case of a body corporate, to a fine not exceeding US Dollars one hundred thousand (US\$ 100,000);or
- (c) to cancellation of his licence and permanently being disqualified from prospecting, mining or dealing in diamonds and any other minerals.

(2) Any rough diamonds obtained contrary to the provisions

Mining (Diamond Trading)

GN. No. 137 (contd.)

of these Regulations shall be forfeited in addition to other penalties provided for under sub-regulation (1).

Revocation
of The
Mining
(Diamond
Trading)
Regulations,
2002 GN.
No. of 2002

18. The Mining (Diamond Trading) Regulations of, 2002 are hereby revoked.

FIRST SCHEDULE

FORM DTF 1

THE MINING ACT

(CAP.123)

THE APPLICATION FOR CERTIFICATE TO EXPORT ROUGH DIAMONDS

(Made uUnder rRegulation 9(1))

To: THE COMMISSION

I, [full name] _____

of [address] _____

hHereby apply for a certificate to export rough diamonds in accordance with the following particulars:-

1. I am the holder of a valid _____ [licence type] Number _____ issued on _____
2. I wish to export _____ parcel(s) containing rough diamonds weighing _____ carats of a total value of US dollars _____ as per invoice number _____ of _____
3. The diamonds were obtained from _____ [name] of _____ [address] holding _____ [licence type] number _____
4. The export of the said diamonds will be made at [place of export] _____ by [means of transmission] _____ to [name and address] _____

Mining (Diamond Trading)

GN. No. 137 (contd.)

I have made in respect of the minerals to be exported a [payment in lieu of royalty][a provisional payment in lieu of royalty] of _____ [state the amount] and attach a copy of the official receipt number _____ dated _____

Dated this _____ day of _____, 20 _____

Declaration by Exporter

I certify that the said diamonds do not contain any conflict diamonds and that I shall be liable to in case of the contrary.

Signature of Applicant _____

Name _____

Qualification _____



THE UNITED REPUBLIC OF TANZANIA

THE MINING ACT
(CAP.123)

(Made uUnder Regulation regulation 9(3))

CERTIFICATE OF EXPORTATION FOR ROUGH DIAMONDS
(KIMBERLEY PROCESS CERTIFICATE)

Certificate No. TZ 00000

Permission is hereby granted to [full name] _____
_____ holder of Licence No. _____ of [full address]

to export _____ parcel(s) containing _____ [describe according to
Harmonised codes] mined in _____ [country where extracted],
weighing _____ carats and valued at US dollars (USD) _____
by [state means of transmission from Tanzania and place or post office at which the
minerals are to be exported]

_____ to [name and address of importer/consignee]

This permit is valid for a period of 30 days from the date hereof.

This permit is issued subject to the following condition(s):-

The rough diamonds in this shipment have been handled in accordance with the provisions
of the Kimberley Process International Certification Scheme for rough diamonds.

Dated at _____ this _____ day of _____, 20 _____

Executive Secretary
MINING COMMISSION

THE MINING ACT
(CAP.123)

(Made Under under Regulation regulation 10(1))

APPLICATION FOR PERMIT TO IMPORT ROUGH DIAMONDS

To: THE COMMISSION

I, [full name] _____ of [address] _____
hereby apply for a permit to import rough diamonds in accordance with the following
particulars:-

1. I wish to import _____ package(s) containing rough
diamonds weighing _____ and valued at US dollars (US\$) _____
2. The importation of the said rough diamonds will be made at [place of entry through
Customs] _____
3. The said rough diamonds will be/have been transmitted from [name and address]

by [means of transmission] _____
on [date] _____

THE MINING ACT, 2010
(CAP.123)

(Made Under under Regulation regulation 10(3))
IMPORT PERMIT FOR ROUGH DIAMONDS

Permission is hereby granted to [full name] _____ No. _____
_____ of [full
address] _____ to import _____ package(s) containing rough
diamonds, weighing _____ carats and valued at US dollars (US\$) _____

The rough diamonds shall be imported at [state name of Customs station at which entry is to be made]
on ~~or~~ before [state date] _____ otherwise this permit shall be null and void.

This permit is issued subject to the following condition[s]:-

Dated at _____ this _____ day of _____, 20 _____

Executive Secretary
THE MINING COMMISSION

For completion by Customs.

The rough diamonds to which this permit refers were imported by
[full name and address of importer]

from _____ at [place of entry] _____
on [date] _____ 20 _____

Collector of Customs

NOTE:- This permit must be submitted to a collector of Customs at the time of importation of
minerals to which it relates for confirmation by the COMMISSION.

THE MINING ACT
(CAP.123)

(Made Under under Regulation regulation 10(8))

Certificate No. TZ

Import Confirmation Certificate

| | |
|---|--|
| Country of destination | |
| Identification of importer (Name and Address) | |
| Carat/weight and value in USD | |
| Relevant Harmonised Commodity Description and Coding System | |
| Date of receipt by Importing Authority | |
| Authentication by Importing Authority | |

To be returned to the Mining Commission, Ministry of Minerals of the United Republic of Tanzania.

SECOND SCHEDULE

(Made under regulations 9(2) and 10 (2))

Fees

- | | |
|--|---------|
| 1. Application fees for certificate to export rough diamonds | US\$100 |
| 2. Application fees for permit to import rough diamonds | US\$300 |

Dodoma,
30th January, 2019

DOTO MASHAKA BITEKO (MP),
Minister for Minerals