

**ACT 652****KIMBERLEY PROCESS CERTIFICATE ACT, 2003**

## ARRANGEMENT OF SECTIONS

## SECTION

1. Kimberley Process Certificate required for export of rough diamonds.
2. Application for Kimberley Process Certificate.
3. Issue and form of Kimberley Process Certificate.
4. Export report.
5. Import report.
6. Packaging of rough diamonds for export and import.
7. Record keeping of rough diamonds for export and import.
8. Suspension and cancellation of licence.
9. Offence.
10. Interpretation.

## SCHEDULE

*Forms*

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**ACT 652****KIMBERLEY PROCESS CERTIFICATE ACT, 2003<sup>1</sup>**

**AN ACT to provide for the requirement of Kimberley Process Certificate for the export and import of rough diamonds and to provide for related matters.**

**1. Kimberley Process Certificate required for export of rough diamonds**

A person who has been granted a licence under section 3 of the Mineral and Mining Act, 1986<sup>2</sup> shall not export rough diamonds unless that person has applied for and been issued a Kimberley Process Certificate.

**2. Application for Kimberley Process Certificate**

An application for a Kimberley Process Certificate shall be as in the Form 1 set out in the Schedule and shall be made to the Minister.

**3. Issue and form of Kimberley Process Certificate**

(1) The Minister, may when all the information required to be given under section 2 is supplied, issue a Kimberley Process Certificate in respect of the rough diamonds to which the application relates, within three days from the date of submission of the application.

(2) An applicant who does not comply with section 2 shall not be issued with a Kimberley Process Certificate.

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1. The Act was assented to on 24th October, 2003.
  2. P.N.D.C.L. 153.

(3) The Kimberley Process Certificate shall contain the information provided in the Form 2 set out in the Schedule.

#### **4. Export report**

(1) An exporter of rough diamonds shall prepare a report which shall be as in the Form 3 set out in the Schedule.

(2) Form 3 shall be presented to a customs officer at the time of export and a copy shall be sent to the Minister by mail, courier or delivered by hand within seven days after the export.

#### **5. Import report**

(1) An importer of rough diamonds shall prepare a report which shall be as in the Form 4 set out in the Schedule and shall be presented to a customs officer at the time of clearing the import.

(2) Form 4 shall be accompanied with a Kimberley Process Certificate issued by the exporting authority responsible for rough diamonds in the country of origin of the rough diamonds.

(3) A copy of the Form 4 and the Kimberley Process Certificate from the exporter shall be sent to the Minister by mail, courier or delivered by hand within seven days after the importation of the rough diamonds.

#### **6. Packaging of rough diamonds for export and import**

(1) Rough diamonds shall be exported or imported in containers in accordance with this Act.

(2) A container for the export and import of rough diamonds shall be constructed in a manner that makes the reseal of the container impossible after it is opened.

(3) The container in which rough diamonds are exported shall bear the serial number of the accompanying Kimberley Process Certificate.

#### **7. Record keeping of rough diamonds for export and import**

A person who exports or imports rough diamonds shall keep in respect of the rough diamonds the following records:

- (a) the serial numbers of the Kimberley Process Certificate, and
- (b) the purchase order, invoice or similar document if the rough diamonds were purchased or otherwise obtained by the exporter or importer.

#### **8. Suspension and cancellation of licence**

(1) The Minister may suspend or cancel a licence issued to an exporter of rough diamonds under section 1 if the holder

- (a) fails to submit a report required under section 4 or 5,
- (b) is in breach of a provision of this Act or any other enactment relating to the export and import of rough diamonds,

- (c) makes a statement to the Minister in connection with a Kimberley Process Certificate which the exporter knows or ought to have known to be false, or
- (d) for any reason becomes ineligible to apply for a Kimberley Process Certificate under this Act.

(2) The Minister shall before suspending or cancelling a licence, give notice to the holder in the manner determined by the Minister and shall in the notice require the holder to remedy the breach and where the breach cannot be remedied, show cause to the satisfaction to the Minister why the licence should not be suspended or cancelled.

(3) On cancellation of a licence, the rights of the holder shall cease but without prejudice to the liabilities or obligation incurred by a person prior to the date of the cancellation.

**9. Offence**

(1) A person who is in breach of a provision of this Act commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or a term of imprisonment not exceeding two years or to both the fine and imprisonment.

(2) The diamonds, the subject of the conviction shall be forfeited to the State.

**10. Interpretation**

In this Act, unless the context otherwise requires,

“**Harmonised System**” means the Harmonised Commodity Description and Coding System set out in the Customs Tariff;

“**Kimberley Process Certificate**” means,

- (a) in relation to the export of rough diamonds from Ghana, the certificate issued by the Minister or a person authorised by the Minister for the export of rough diamonds from this country;
- (b) in relation to the import of rough diamonds, a similar Kimberley Process Certificate issued by the respective authority of the exporting country for the export of rough diamonds;

“**Minister**” means Minister responsible for Mines.

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SCHEDULE

FORM 1

[Section 2]

*Application for Kimberley Certificate*

Name and address of applicant exporter/company .....

Name and address of applicant where not the exporter .....

Name and address of consignee of rough diamonds .....

FORM 1—continued

Origin of rough diamonds .....

Longitude and latitude of exploration site .....

Place and name of the facility where diamonds extracted .....

Place and name of the mine .....

Mass of rough diamonds measured in carats .....

Value of rough diamonds in U.S. Dollars or the cedi equivalent .....

.....

Thereby declared that the information contained in this application is correct. ....

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Date .....

Name .....

Signature .....

FORM 2

[Section 3]

Form of Kimberley Certificate

Name and address of exporter/company .....

Name and address of consignee .....

Mass of rough diamonds measured in carats .....

Value of rough diamonds in U.S. Dollars or the cedi equivalent .....

Harmonised System for the rough diamonds .....

Number of containers in shipment .....

Serial number for each container .....

Date of issue and expiry of certificate .....

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

Date

Minister responsible for Mines

FORM 3

[Section 4]

*Export Report for Rough Diamonds*

Name and address of exporter .....

Name and address of consignee .....

Serial number of Kimberley Certificate .....

Date of export of rough diamonds .....

I hereby attest to the accuracy of the contents of this report .....

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

Date .....

Name .....

Signature .....

**Note:** This report shall be authenticated by a customs officer at the time of expiration of the rough diamonds and the duplicate of a report shall be given to the customs officer at the time of exportation of the rough diamonds.

FORM 4

[Section 5]

*Report on Import of Rough Diamonds*

Name and address of importer .....

Name and address of consignee .....

Serial number of Kimberley Certificate .....

Date of import of rough diamonds .....

I hereby attest to the accuracy of the contents of this report .....

Date .....

Name .....

Signature .....

**Note:** This report shall be authenticated by a customs officer at the time of clearance of the rough diamonds and the duplicate of the report shall be given to the customs officer at the time of clearance of the rough diamonds.

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