

THE DIAMOND CUTTING AND POLISHING ACT, 2007

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SCHEDULE

SIGNED this 22nd day of March, 2007

ALHAJI AHMAD TEJAN KABBAH,
President.

No. 2



Sierra Leone

2007

The Diamond Cutting and Polishing Act, 2007.

Short title.

Being an Act to provide for the control of diamond cutting and polishing, the licensing of diamond cutters and polishers, to define the rights and duties of a licensee and for other matters connected therewith.

[5th April, 2007]

Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpretation.	<p>1. In this Act, unless the context otherwise requires—</p> <p>“authorized officer” includes diamond inspectors and any other person authorized in writing by the Minister;</p> <p>“business premises”, in relation to a licensee, means business premises of the licensee approved by the Director as fit for the purpose of operating a diamond cutting and polishing business efficiently and effectively under paragraph (b) of subsection (2) of section 4;</p> <p>“company”, means a company registered under the Laws of Sierra Leone;</p> <p>“cutting and polishing” in relation to any unpolished or polished diamond, means the sawing, cutting, cleaving or dividing in any manner, faceting or altering of that diamond, and “cut and polish” has a corresponding meaning;</p> <p>“dealer” means the holder of a diamond dealer’s licence referred to in section 80 of the Mines and Minerals Act, 1994;</p> <p>“diamond inspector” means a diamond inspector authorised in writing by the Minister under subsection 11;</p> <p>“Director” means the Director of Mines appointed under section 7 of the Mines and Minerals Act, 1994;</p> <p>“exporter” means the holder of a diamond exporters’ licence referred to in section 80 of the Mines and Minerals Act, 1994;</p> <p>“Gold and Diamond Department” means the Gold and Diamond Department of the National Revenue Authority;</p>
Act No. 5 of 1994.	<p>“dealer” means the holder of a diamond dealer’s licence referred to in section 80 of the Mines and Minerals Act, 1994;</p>
Act No. 5 of 1994.	<p>“Gold and Diamond Department” means the Gold and Diamond Department of the National Revenue Authority;</p>

“Harmonized Commodity Description and Coding System” means the internationally standardized system of names and numbers maintained by the World Customs Organization for classifying traded products.	Act No. 5 of 1994.
“Kimberley Process Certificate” means a document issued by a participant that certifies that rough diamonds for export, or import or in transit have been handled in a manner that meets the minimum requirements of the Kimberly Process Certification Scheme;	
“Kimberley Process Certification Scheme” means the Kimberley Process Certification Scheme referred to by Resolution 55/56 adopted by the United Nations General Assembly on 1st December, 2000 and amendments thereto;	
“licence” means a diamond cutter and polisher’s licence, referred to in section 3, and includes the renewal of any such licence;	
“licensee” means the holder of a diamond cutter and polisher’s licence granted by the Minister under section 5;	
“Mines and Minerals Act” means the Mines and Minerals Act, No. 5 of 1994;	Act No. 5 of 1994.
“miner” means the holder of a diamond miner’s licence referred to in section 80 of the Mines and Minerals Act, 1994;	Act No. 5 of 1994.
“Minister” means the Minister of Mineral Resources;	
“National Revenue Authority” means the National Revenue Authority established under section 3 of the National Revenue Authority Act, No. 11 of 2002;	Act No. 11 of 2002.
“person” includes any company, co-operative society, joint-venture or partnership;	

“prescribe” means prescribed by regulation, and “prescribed” has a corresponding meaning;

“sell”, in relation to a diamond, means to sell the diamond, to offer or expose it for sale, barter or pledge or for any like purpose or to dispose of or deliver it for the purpose of trade:

“this Act” includes the regulations made or issued thereunder;

“rough diamond” means a diamond that is unworked or sawn, cleaved or bruted and falls under the relevant Harmonized Commodity Description and Coding System 7102.10, 7102.21 and 7102.31.

PART II-DIAMOND CUTTING AND POLISHING LICENCES

Control of diamond cutting and polishing.

2. (1) Subject to this Act, no person shall cut, polish, crush or set diamonds in tools, implements or other articles or otherwise alter diamonds for the purpose of business or trade in Sierra Leone unless that person holds a diamond cutter and polisher’s licence issued by the Minister for that purpose.

(2) Any person who contravenes a provision of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding thirty million Leones or to imprisonment for a term not exceeding ten years or to both such fine and such imprisonment.

Diamond cutter and polisher’s licences.

3. (1) Any person who wishes to engage in the business of diamond cutting and polishing shall apply to the Director for a diamond cutter and polisher’s licence.

(2) A diamond cutter and polisher’s licence shall be granted –

- (a) to a person;
- (b) to a co-operative society registered in Sierra Leone;

(c) to a joint-venture or partnership registered in Sierra Leone;

(d) to a body corporate that is incorporated and registered in Sierra Leone.

(3) All such persons, co-operatives, joint-ventures, partnerships and bodies corporate shall be required to register with the Director and will be required to provide further documentation as may be required by the Director.

4. (1) An application for the grant of a diamond cutter and polisher’s licence shall be made to the Director and shall be in such form as set out in ‘Form 1’ in the Schedule.

Application for diamond cutter and polisher’s licence.

(2) An application for the grant of a diamond cutter and polisher’s licence shall –

(a) state the full name of the applicant and in the case of a partnership or other association of persons, the full names and nationalities of all such persons and in the case of a body corporate the registered name of such body and particulars of its shareholders;

(b) state the address of the business premises in which the applicant intends to carry out the business of diamond cutting and polishing and proof that the business premises has been inspected and approved by the Director as fit for the purpose of operating a diamond cutting and polishing business efficiently and effectively;

(c) be accompanied by a statement giving particulars of the capital and experience available to the applicant to operate the diamond cutting and polishing business efficiently and effectively;

(d) be accompanied by a receipt or other evidence of payment of the prescribed fee as specified in the Schedule; and

- (e) may set out any other matter which the applicant wishes the Director to consider.

Grant of diamond cutter and polisher's Licence.

5. The Minister may on the recommendation of the Director and the Gold and Diamond Department and subject to section 16 of the Mines and Minerals Act, grant or refuse to grant a Diamond cutter and polisher's licence.

Duration, renewal, and revocation of diamond cutter and polisher's licence.

6. (1) Subject to the provisions of subsections (2) and (3) a diamond cutter and polisher's licence shall be valid for such period, not exceeding five years, as the Minister may determine and may on application made to the Minister, be renewed for further periods not exceeding five years at a time.

(2) The Minister may revoke a diamond cutter and polisher's licence if-

- (a) he is satisfied that, in the case of a body corporate the holder is no longer a body corporate;
- (b) within a period of one year no diamond cutting and polishing operations have commenced under the said licence or its renewal.

(3) A diamond cutter and polisher's licence under subsection (1) shall not be renewed-

- (a) if the business premises in which the diamond cutting and polishing operations is conducted has ceased to be a place approved by the Director as fit for that purpose;
- (b) unless the Minister, after consultations with the Director, is satisfied that the applicant has carried on, in good faith, within the limits of his competence and resources, diamond cutting and polishing operations in accordance with his licence;

- (c) if the applicant is in default and the Minister is not prepared to waive the default.

PART III—RIGHTS AND DUTIES OF LICENSEE

7. (1) A licensee has a right to buy, deal in, export, import as well as, cut, polish, crush or set diamonds in tools, implements or other articles or otherwise alter diamonds for the purpose of business or trade. Rights and duties of licensees.

(2) Without prejudice to the generality of subsection (1) a licensee shall-

- (a) carry on diamond cutting and polishing business exclusively, in the business premises approved by the Director as fit for the purpose of operating a diamond cutting and polishing business efficiently and effectively under paragraph (b) of subsection (2) of section 4;
- (b) buy or acquire diamonds from any miner, dealer, or exporter and for that purpose enter into a reasonable arrangement with such miner, dealer or exporter to ensure a regular supply of diamonds as will enable him to carry on the diamond cutting operations authorized by his licence without interruption;
- (c) keep all diamonds bought or acquired under paragraph (b) only,
 - (i) on the business premises approved by the Director under paragraph (b) of subsection (2) of section 4;
 - (ii) in a safe deposit vault maintained by a bank;
 - (iii) at such other place as the Minister may approve.

- (d) import diamonds that will enable him to carry on the diamond cutting and polishing operations authorized by his licence only in accordance with the Kimberley Process Certification Scheme;
- (e) export diamonds that cannot be cut and polished in Sierra Leone for resale in accordance with the Kimberley Process certification Scheme;
- (e) cause all diamonds bought or acquired under paragraph (b) to be submitted to the Gold and Diamond Department to be valued, parceled and sealed in such manner as the Minister may prescribe or otherwise determine before accepting delivery of such diamonds;
- (f) ensure that all diamonds cut and polished in accordance with his licence conform to international standards;
- (g) label all diamonds mined in Sierra Leone with a brand name stating that the diamonds were mined, cut and polished in Sierra Leone, as the Minister may prescribe,;
- (h) furnish the Minister with such information relating to his diamond cutting and polishing operations as the Minister may reasonably require;
- (i) carry out promptly any directives relating to his diamond cutting and polishing operations which may be given to him by the Minister or the Director for the purposes of ensuring safety and good industrial and commercial practices;

- (j) if not personally supervising the diamond cutting and polishing operations under the licence, employ a factory supervisor for the purpose of supervising the diamond cutting and polishing operations;
- (k) with due regard to efficiency, economy and practicability, in the employment of employees, give preference to Sierra Leonean citizens who possess appropriate qualifications, expertise and experience for purposes of the operations to be carried on by the licence and employ persons who are not Sierra Leonean citizens only where the qualifications, expertise and experience required for such employment cannot be obtained by recruitment of Sierra Leonean citizens;
- (l) with due regard to efficiency, economy and practicability carry out training programs in order to encourage and promote the development of Sierra Leonean citizens employed by the licence holder;
- (m) keep accurate and complete records of his purchases, sales, exports and imports and submit, within 14 days after the expiration of every month, a true copy of all such entries relating to the previous month, together with a declaration testifying to the correctness thereof, to the Director and the Gold and Diamond Department in the form specified in Form 3 in the Schedule:
- (n) whenever so required, produce such records referred to in paragraph (m), for the inspection of the Director or other authorized officer.

PART IV—FINANCIAL MATTERS

Duty payable. **8.** Subject to this Act, a licensee who wishes to export cut and polished diamonds shall, before release of the diamond for export by the Minister following valuation by the Gold and Diamond Department, pay to the National Revenue Authority a duty at a rate of 0.5% of the difference of the certified value of the unpolished and the cut and polished diamond.

Valuation fees. **9.** A licensee shall pay to the Gold and Diamond Department or as the Minister may direct, a fee at the rate of 3% of the certified value of all rough diamonds valued by the Gold and Diamond Department in accordance with this Act.

Customs duty exemption. **10.** All equipment imported by a licensee for the purpose of setting up a business premises for the purpose of carrying on the diamond cutting and polishing operations authorized by his licence shall not be subject to customs duty under the Customs and Tariffs Act.

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PART V—MONITORING

Power to monitor. **11.** (1) The Director shall be responsible to monitor all diamonds purchased by the licensee as well as all diamonds in the business premises of the licensee and shall be assisted by diamond inspectors and any other person authorized in writing by the Minister.

(2) In the exercise of the powers conferred on the Director under subsection (1), the Director or other authorized person may-

- (a) enter any premises or other property or place on which any activity in connection with diamonds is carried on and perform on any such premises, property, place such acts as may be necessary to ascertain whether the provisions of this Act have been or are being complied with;

- (b) if he has reasonable grounds to suspect that an offence under this Act has been or is about to be committed in respect of any diamond, or has been or is about to be committed in respect of or by means of any machinery, and that such diamond or machinery is upon any premises, property or place, at any time enter and search any such premises, property or place, and search or cause to be searched any person thereupon or therein;

- (c) if he has reasonable grounds to suspect that any machinery is used or intended for use in connection with the unlawful cutting or polishing of diamonds, examine, test or take photographs of such machinery;

- (d) question any person who in his opinion may be capable of furnishing any information on any matter to which this Act relates, and for that purpose require any diamond cutting or polishing activity to be stopped;

- (e) if he has reasonable grounds to suspect that any person has committed an offence under this Act, search or cause to be searched any such person or any article in his possession or custody or under his control, including any clothing worn by such person, and arrest such person;

- (f) require from any person who has in his possession or custody or under his control any register or document under this Act, to produce to him forthwith, or at such time and place as may be determined by him, any such register or document;

- (g) if he has reasonable grounds to suspect that any parcel which is being or has been dispatched through the post or by means of a courier service contains any diamond, notwithstanding anything to the contrary in any other law contained, stop or cause to be stopped either during transit or otherwise any such parcel, and open and examine such parcel in the presence of the person by whom it was dispatched, or any other suitable person; or
- (h) seize any diamond, machinery, register, document or thing which appears to provide proof of a contravention of a provision of this Act.

(3) The Director or other authorized person may exercise the powers conferred by subsection (1) only-

- (a) on the business premises of any licensee; or
- (b) on any premises or area into which he reasonably believes that any person who has committed an offence under this Act has fled or escaped.

Regulations.

PART VI—MISCELLANEOUS PROVISIONS

12. (1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act—

(2) Without prejudice to the generality of subsection (1), regulations made under this Act, may provide for or with respect to –

- (a) the purchase, sale and possession of diamonds and the safekeeping of those diamonds;
- (b) the prevention of illegal acts relating to diamonds;
- (c) the cancellation of any registration under this Act or of any certificate or other authority issued or obtained under this Act;
- (d) any records, information or registers which shall be kept for the purposes of this Act;
- (e) any matter which the Minister may consider necessary or expedient to prescribe or regulate in order that the objects of this Act may be achieved.

(3) A regulation made under subsection (1) may prescribe a fine not exceeding thirty million leones or imprisonment for a period not exceeding ten years or both such fine and such imprisonment, for any contravention of any provision of this Act.

SCHEDULE

Form 1

REPUBLIC OF SIERRA LEONE
DIAMOND CUTTING AND POLISHING ACT

APPLICATION FOR A DIAMOND CUTTER AND POLISHER'S LICENCE

1. (a) Full Name:.....
- (b) Date of Birth:.....
- (c) Nationality (state name of country and passport details)
- (d) Position in Company:
2. Name of Company.....
3. Residential Address of Applicant in Sierra Leone:
-
4. Business Address in Sierra Leone.....
5. Business Address Overseas
6. Occupation:.....
7. If not a Citizen of Sierra Leone
 - (a) state date of arrival in Sierra Leone
 - (b) give particulars of employment or occupation prior to entry into Sierra Leone.

Period of employment or occupation	Capacity (Position Held)	Place (Country)

8. (a) state capacity in which application is made (personal/Director of the company/partner)
- (b) If in partnership, state:
 - (i) Name (s) of other partners:
 - (ii) Date (s) of Birth:.....
 - (iii) Nationalities (state name of country)
 - (iv) Occupation (s)

9. Give particulars of plant you propose to erect at commencement of operations:

- (a) Cutting machines.....
- (b) Mills.....
- (c) Sawing machines.....
- (d) other (specify).....

10. Give number to be employed of the following

- (a) Cleavers
- (b) Cutters
- (c) Polishers
- (d) Sawyers
- (e) other (specify)

11. State financial position

- (a) Value of property US\$.....
- (b) Cash on hand US\$.....
- (c) Other assets US\$.....
- (d) Capital you intend to invest US\$.....
- (e) will you receive financial support? If yes, state:

- (i) name of supporter
- (ii) Amount of financial support: US\$.....
- (iii) Conditions on which such support will be given.....
.....
.....
.....

(This information to be supported by such documentary evidence as the Minister may require).....

- 12. (a) Have you or your company ever been declared insolvent
- (b) If “Yes”, state whether and when rehabilitated

- 13. (a) Have you or any Director/Shareholder of your company ever been convicted of a criminal offence within or outside Sierra Leone:.....
.....

- (b) If “Yes”, state:
 - (i) Nature of offence:.....
 - (ii) Penalty imposed:
 - (iii) Where convicted:

I, the undersigned, am aware that any statement I have made in this application which is false or incomplete will automatically render me/my company ineligible to be issued with the licence applied for and liable to prosecution. I swear that the above information is true and complete.

Date:
.....
Signature of Applicant.

Form 2

DIAMOND CUTTER AND POLISHER’S LICENCE

NO:

.....is hereby
(full name)

licensed under section.....of the Diamond Cutting Act, to:

- * (a) carry on the business or trade of diamond cutting and polishing, in premises situated at:.....
foryear (s) subject following conditions
.....
.....
.....
.....
.....
.....
.....
.....
.....

.....
Minister of Mineral Resources.

Passed in Parliament this *19th* day of *December*, in the year of our Lord two thousand and six.

A. A. KEMOKAI,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

A. A. KEMOKAI,
Clerk of Parliament.